A WIFE'S DILEMMA: LEGAL AND EXTRALEGAL RESPONSES TO PATRIARCHY AND DOMESTIC VIOLENCE IN COLONIAL LIMA, 1600-1640

A Thesis

by

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ABSTRACT

A Wife's Dilemma: Legal and Extralegal Responses to Patriarchy and Domestic Violence in Colonial Lima, 1600-1640
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This thesis examines the experience of women in colonial Lima in the Viceroyalty of Peru. The patriarchal society of Latin America left women at a distinct disadvantage. They were the inferior sex, subject to the control of their male counterparts, at least in theory. Focusing on married couples in Lima from 1600-1640, this thesis describes the hardships wives of Peru experienced and the ways they responded to their mistreatment. I will join a body of growing literature that shows how women in Peru had access to the courts and often sought divorces from their husbands as a means to be liberated from their abuse. This was not, however, their only option for recourse. This thesis argues that women also used extralegal tactics, namely flight from their husbands, as a means to avoid and prevent mistreatment. Separating themselves from their husbands illustrates the power and control that wives had in the marriage and over their own bodies, despite social ideas about their weak, inferior status.

ACKNOWLEDGEMENTS

The hard work of many others is a major reason this thesis reached its completion. I would like to begin by thanking my parents for giving me grace when possible and discipline when necessary. Their love and patience through the rough years are the reason I am here today. I also would like to thank the Kringels and Neffs who were my second families in my younger years. Drs. Barnett, Ward and Wood at Lee University fostered my research and writing in my earliest stages as a historian. Jason Ward, in particular, sparked my interest in Latin America. My adviser at Appalachian State, René Horst, spent countless hours writing recommendations and reading papers, even when the topics moved outside his interests. Also, Professor Ed Behrend-Martinez helped me understand Spanish marriages and the court system. My fellow graduate students at Appalachian State provided much needed camaraderie throughout this journey. During my two years at Appalachian State, I also received substantial financial support from the Office of Student Research and the Graduate Student Association Senate, which made research at the archives in Lima possible. Finally, I am grateful to my wife. Without her love and support, this thesis never would have been put to paper.

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INTRODUCTION

In colonial Peru, women occupied a convoluted and contradictory place in society. They were to be protected and their reputations cherished, yet society often, if not always, considered women socially, morally, and intellectually inferior to men. This study's primary goal is to locate the ways in which women of Peru overcame the adversities they faced on a regular basis. In this endeavor, the following pages will examine the marital relationships in Lima, the bureaucratic and social capital of the Viceroyalty of Peru. Through the exploration of church court transcripts, this thesis will document the suffering many women faced at the hands of their husbands. Ultimately, this chapter argues that while wives in Lima often sought retribution through legal means, namely divorce courts, they also had extralegal options and frequently employed them.

Historiography and Theory

This study is possible because of the extensive work on gender in Latin America that already exists. Much credit should be given to Asuncion Lavrin, whose edited compilations and monographs began the steady increase in books and articles written about women, gender, and sexuality in Spanish America.[1] Her edited compilations, in particular, are still used frequently in current research. The literature on women in medieval and early modern

[1] Asunción Lavrin, ed., *Sexuality and Marriage in Colonial Latin America* (Lincoln and London: University of Nebraska Press, 1989) and Asunción Lavrin, ed., *Latin American Women: Historical Perspectives* (London: Greenwood Press, 1978).

Spain has also served as a foundation for this study.[2] For example, Heath Dillard's *Daughter's of the Reconquest* established that in the frontiers of medieval Castile, Spanish society assured women certain legal rights in a decidedly patriarchal society. The following pages will show that those same rights existed in colonial Peru.

The body of work on women and gender in Peru has been sparse, yet the quality has never lacked. The seminal work of Irene Silverblatt, *Moon, Sun and Witches*, occupies an important place in the historiography.[3] Her exploration of the gender norms of indigenous Andean societies and the use of witchcraft by indigenous women was one of the first Peruvian histories dedicated to women. Since then, historians and anthropologists have studied how women in Peru participated in and were perceived by male-dominated society.[4] Karen Graubart has argued that through their labor, women influenced the formation and construction of colonial society.[5] Kimberly Gauderman, in her research on women in colonial Quito, posited that the decentralized nature of colonial society, evidenced in politics and

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[2] See, for example, Heath Dillard, *Daughters of the Reconquest: Women in Castilian Town Society, 1100-1300* (Cambridge: Cambridge University Press, 1984); Edward J. Behrend-Martinez, *Unfit for Marriage: Impotent Spouses on Trial in the Basque Region of Spain, 1650-1750* (Reno: University of Nevada Press, 2007); Anne J. Cruz and Mary Elizabeth Perry, eds., *Culture and Control in Counter-Reformation Spain* (Minneapolis: University of Minnesota Press, 1992).

[3] Irene Silverblatt, *Moon, Sun, and Witches: Gender Ideologies and Class in Inca and Colonial Peru* (Princeton: Princeton University Press, 1987).

[4] See, for example, Karen Viera Powers, *Women in the Crucible of the Conquest: The Gendered Genesis of Spanish American Society, 1500-1600* (Albuquerque: University of New Mexico Press, 2005); Nancy van Deusen, *Between the Sacred and the Worldly: The Institutional and Cultural Practice of Recogimiento in Colonial Lima* (Stanford: Stanford University Press, 2001); María Emma Mannarelli, *Private Passions and Public Sins: Men and Women in Seventeenth Century Lima* (Albuquerque: University of New Mexico Press, 2007).

[5] Karen Graubart, *With our Labor and Sweat: Indigenous Women and the Formation of Colonial Society in Peru 1550-1700* (Stanford: Stanford University Press, 2007).

religion, required women's access to power.[6] Following these works and others, this thesis analyzes the plight of married women in seventeenth century Lima and women's responses to abusive and/or neglectful treatment by their husbands.

This study enters into two separate theoretical debates on the history of Peru. The first is the discussion of the construction of colonial culture. Historian Steve Stern's iconic *Peru's Indian Peoples* proposed that the cultural exchange between indigenous peoples and Spaniards resulted in a colonial society that retained aspects of both cultures.[7] And for the most part, I would agree with that conclusion. However, my research illuminates one major exception. The gendered collision that occurred in the Andes, when the gender ideals of natives and conquerors met, had a one-sided outcome. That is, Spanish opinions of male and female trumped gender norms of indigenous peoples. This is not to say that indigenous concepts like complimentarity and parallelism, which promoted the equal contribution of each sex and the belief in two separate but equal genders, were extinguished when the Spanish conquered the Inca Empire. A select few certainly found ways to continue to practice their gender values. Yet this thesis shows that while some people held on to the indigenous ideas about men and women, colonial society functioned as an overtly patriarchal system.

This thesis also enters the debate regarding the depiction of women in Latin American historiography. Before the 1980s, historians often left out women in monographs

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[6] Kimberly Gauderman, *Women's Lives in Colonial Quito: Gender, Law and Economy in Spanish America* (Austin: University of Texas Press, 2003).

[7] Steve J. Stern, *Peru's Indigenous People and the Challenge of Spanish Conquest: Huamanga to 1640* (Madison: University of Wisconsin Press, 1982).

and narratives of Latin America. Since then historians and anthropologists have contributed numerous works that included and even centered on women. Several recent books have shown how women gained agency in patriarchal society, but many of them have focused on the ways women could exert power within the letter of the law.[8] This study concedes that women had legal rights and opportunities in Peru and the rest of Spanish America. Yet the growing body of work, perhaps, has portrayed a picture of Latin America that overemphasizes the legal rights of women. In the larger scope, women were still significantly disadvantaged. This thesis argues that while women had some legal options, many of them often employed extralegal tactics to assert their interests in a male-dominated society.

Organization

This thesis begins with an examination of Guaman Poma's *Nueva corónica* (New Chronicle). This chronicle is one of the most valuable and informative pieces of literature from colonial Peru. Guaman Poma wrote his book as an appeal to the King of Spain, pleading for an indigenous-ruled Peru that answered directly to the King. Within the 1,200 pages composed by the Andean author, Guaman Poma included 400 etchings portraying life in the Andes before Spanish arrival, during the conquest, and after the Spanish established their governance. These etchings are the focus of the first chapter, which examines the depictions of men and women in the chronicle. Guaman Poma's etchings portray aspects of Andean and Spanish gender values. Although the gender norms of both societies can be seen in the *New Chronicle*, the same cannot be said of colonial society. This section contends that the gender equity that epitomized Andean culture was surpassed by the male-dominated

[8] See, for example, Powers, *Women in the Crucible of the Conquest*.

Spanish patriarchy. This chapter seeks to describe the gender conceptions that existed for the women cited in Chapters 2 and 3 and how they came about in Spanish Peru.

The second chapter examines petitions for divorce by women in Lima. Divorce was one of the options open to women who were dissatisfied with their marital situation. By the seventeenth century, wives in Lima were requesting separations and annulments, the two types of divorce in the early modern Spanish empire. Wives' petitions cited in this thesis illustrate the horrible mistreatment that women could be subjected to in colonial Peru. Adultery and physical abuse were not uncommon in patriarchal society. And while these women endured years of violence and cruelty, many of them reached a breaking point. These wives used one of the only legal recourses available to protect themselves from their husbands and free themselves from the abusive relationship.

Other women, also dissatisfied with their marital situation, chose not to appeal to Catholic judges in the divorce court. Chapter 3 shows that women also used unofficial means to provide relief from abusive or neglectful situations. The wives examined in this chapter acted outside of law and tradition and moved out of their houses. They left their husbands and their discontented lives. Rather than submit themselves to the judgment of a court with inherent patriarchal bias, these women took control of their bodies and situations without requesting approval from any male authority figure. These cases show the true power that women possessed in this male-dominated society despite the social, cultural, legal, and religious traditions working against them.

This thesis hopes to shed light on the lives of women residing in one of the epicenters of the Spanish American Empire. The wives examined throughout these pages lived in a bustling urban city. This urban setting provided the most official and structured life in the

Viceroyalty of Peru. The development of the local governments and the courts, both secular and religious, exceeded those of any other city in South America in the seventeenth century. In Lima, women could appeal for divorce with much greater frequency and with greater ease than they could in Quito or Potosí. And many women, as Chapter 2 will show, took advantage of that option. But others refused to take their chances in court, and instead, used their own discretion to decide their actions and future. This thesis will show the extent of patriarchy and domestic violence in Lima and trace the legal and extralegal responses of wives to their situations.

CHAPTER 1

GUAMAN POMA DE AYALA AND GENDER VALUES IN SPANISH PERU

Introduction

When the Spanish arrived in the Andes, two distinct ideas about what it meant to be male and female came face to face. The relationship between men and women differed greatly in pre-Hispanic Peru and Spain. The equitable gender ideals of the Andes were a stark contrast to the patriarchy of the Spanish. As the two divergent societies became one stratified, colonial people, the two gender ideas slowly faded to one. By the seventeenth century, patriarchal ideas about the superiority of men and the inferiority of women prevailed, and only traces of the equitable gender ideals of indigenous cultures remained. This chapter does *not* trace how this evolution took place. Such a study would be voluminous and beyond the scope of this thesis. Instead, this chapter will show that the male-dominated society that existed in colonial Peru, illustrated vividly by the frequency of domestic abuse cited in Chapter 2, was not natural or inevitable. It is important to view the gendered hierarchy of colonial Peru as a system implemented by the conquering Spanish to perpetuate a male-dominated society that existed in Spain. For centuries, Andean cultures had practiced gender ideals in which men and women garnered equal importance.[1] The patriarchy that

[1] See, for example: Silverblatt, *Moon, Sun, and Witches*, 14-61; Powers, *Women in the Crucible of Conquest*, 15-27.

traveled from Europe and ultimately snuffed out indigenous gender values allowed for the injustices against women that will be noted in Chapters 2 and 3.

Nueva corónica

In 1908, a researcher in Denmark made one of the greatest discoveries for Peruvian history. He uncovered a 1200-page book written by an Andean man and sent to King Philip III (ruled 1598-1621). Penned by don Felipe Guaman Poma de Ayala, "Prince and Author," as he referred to himself, *El primer nueva corónica y buen gobierno* included histories of the Incas, accounts of colonialism and autobiographical passages which all centered on a plea for an indigenous-governed Peru which answered directly to the king.[2] In addition to his writings, Guaman Poma also included nearly 400 etchings to accompany his prose. Among these etchings are images of ancient Inca kings, abusive colonial priests, and nativity scenes. These eye-catching portrayals provide insights into the gender ideals of Guaman Poma and colonial Peruvian society. This chapter seeks to understand what his etchings have to say about gender ideals in the colonial society. This section will show how Guaman Poma's etchings feature aspects of both cultures. The following pages also will argue that colonial society had, for the most part, eliminated indigenous gender values and clung to Spanish conceptions of male and female.

The first section will briefly describe what little is known of Guaman Poma. Next, this chapter will discuss what historians have said about pre-Hispanic indigenous and Spanish gender ideals, respectively. The third section will analyze the etchings of the

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[2] Felipe Guaman Poma de Ayala, *El primer nueva corónica y buen gobierno (1615)* (Copenhagen: The Royal Library, 2001), http://www.kb.dk/permalink/2006/poma/info/en/frontpage.htm (accessed on April 15, 2009); David Frye, *Guaman Poma: The First New Chronicle and Good Government* (abridged) (Indianapolis: Hackett Publishing, 2006), xi.

chronicle and interpret their depictions of Andean and European gender norms. This chapter concludes with a description of the consequences of the collision of gender beliefs during the colonial era and that collision's impact on women in the Viceroyalty of Peru.

The Andean Author

The author of this chronicle, don Felipe Guaman Poma de Ayala, is still shrouded in mystery. The historical record has produced little concrete evidence of his life and identity.[3] Even his date of birth is of some debate. Many scholars take Guaman Poma's word that he was eighty at or near the completion of his book. This would place his birth around 1535. But as anthropologist David Frye convincingly argues, his birth was likely circa 1550. If born in 1535, Guaman Poma and his parents would have had little contact with the Spanish, which would contradict much of his writing about his multi-cultural childhood. Also, Guaman Poma claims to have had a mestizo half-brother who, when depicted in the etchings, looks about 10-20 years older than him. This would have been impossible using the 1535 date because the Spanish arrived in Peru in 1532.[4]

According to his uncorroborated account, Guaman Poma's mother was the daughter of Inca Tupac Yupanqui and his father was the son of the "second in command" of the Inca Empire. He also traced his patrilineal line to the royal pre-Incaic Yarovilca dynasty. This royal lineage would have afforded him a high place in colonial society. His claims are plausible yet will likely never be proven. Guaman Poma's parents were part of the ruling

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[3] Some of the most important works on Guaman Poma and his chronicle include: Rolena Adorno, *Guaman Poma: Writing and Resistance in Colonial Peru* (Austin: University of Texas Press, 1986), 83-91; Frye, *Guaman Poma de Ayala;* Christopher Dilke, *Letter to a King: A Peruvian Chief's Account of Life under the Incas and under the Spanish* (New York: E.P. Dutton, 1978).

[4] Frye, *Guaman Poma de Ayala,* vii-viii.

class in the central province of Huamanga, where he was born.[5] As a child, Guaman Poma learned to read and write, not only in Castilian but also in Quechua. During this same time he was introduced to Christianity.[6]

Guaman Poma served as an interpreter for much of his early adult life. During this time he accompanied Father Cristóbal de Albornoz as a translator on *visitas* to prevent the practice of Andean religion and convert indigenous people to Christianity during the *Taki Onqoy* uprising, a pan-Andean religious movement. [7] Members of the Taki Onqoy movement, which began in 1560, believed that the Andean gods would join together to destroy the Spanish Christian God, thereby removing the Spanish from the Andes. The name of the movement literally means "Dancing Sickness," and refers to the convulsions and frenetic dancing that occurred when an Andean man or woman was "possessed" by a god.[8] Guaman Poma's role in stopping this movement shows the extent of his religious assimilation to the Spanish system and Catholicism.

Later in life Guaman Poma acted as an assistant to Fray Martín de Murúa. During this stay the priest exposed Guaman Poma to many pieces of Spanish literature, including histories of the Incas, which were of great interest to Father Murúa. Also, the similarities of illustrations of the two men's compositions have convinced scholars that they collaborated on their books. After conflict arose with Murúa—Guaman Poma accused the father of trying to steal his wife—Guaman Poma left the father's company and served as an interpreter for

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[5] Frye, *Guaman Poma de Ayala,* ix

[6] Rolena Adorno and Mercedes López-Baralt, *Guaman Poma de Ayala: The Colonial Art of an Andean Author* (New York: America's Society, 1992), 10.

[7] Visitas were visits made by priests or political officials often to survey the status of a church, mission or town. In this case the priests set out to counteract the rise of Andean religious practice.

[8] Stern, *Peru's Indian Peoples*, 51-53.

official proceedings regarding land titles.[9] During this time Guaman Poma petitioned the courts for several land grants in the coveted Chupuas valley. These grants were awarded based on family status in the region, but Guaman Poma's attempts were unsuccessful. With the prominent lineage Guaman Poma described for himself, it is possible that the denial of the land grants proved a final insult that compelled him to write his criticism of Spanish abuses.[10]

Gender and Colonization in the Andes

Around 1200 AD, the ruling empire in the Andes, Tawanaku, fell. Shortly after their demise the Quechua-speaking Incas began to expand their territory. By the middle of the fifteenth century the Incas were the most powerful empire in the Andes. As the Inca empire spread, they allowed the conquered peoples to retain their native languages and gods of worship, though the Inca also introduced their own gods. Modes of subsistence in these subverted communities continued nearly unchanged, although the Inca did impose a tribute, or tax.[11]

By the time the Spanish explorers arrived in 1520, the Incas possessed the largest empire in the Americas. Their territory stretched north of Quito, Ecuador, west into what is now central Bolivia and south into central Chile and northern Argentina. The Andes officially "became" Spanish in 1532 when Francisco Pizzaro's expedition conquered the Inca king. By 1535, the Spanish occupied the major cities of the empire including Cajamarca,

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[9] Frances Karttunen, *Between Worlds: Interpreters, Guides, and Survivors* (New Brunswick, NJ: Rutgers University Press, 1994), 125.

[10] Rolenda Adorno, et. al., *Colonial Art*, 10; Frye, *Guaman Poma de Ayala*, x-xii.

[11] Cheryl Martin and Mark Wasserman, *Latin America and its People, Volume I, to 1830* (New York: Pearson and Longman Publishing, 2005), 43-52.

Cuzco, Quito, and Lima. As the Spanish dispersed throughout the Andes, they set up a colonial government.

This colonization has often been understood as a cultural collision. Historian Karen Viera Powers argued that this encounter was also a "gendered collision." "For embedded with that confrontation between two vastly different worlds--European and native American--was an encounter between peoples who held dissimilar beliefs about what it means to be a woman and what it meant to be a man."[12] Two distinct conceptions of gender collided, yet only one gender ideal would survive this collision.

Over the last twenty years, historians and anthropologists of Peru have agreed that pre-Hispanic Andean civilizations practiced gender complementarity and gender parallelism, each a direct contrast to European norms.[13] Parallelism refers to the way in which the Andean people saw the world as divided into two spheres, one male and one female. The men descended from and worshipped the sun. Contrastingly, women descended from and worshipped the moon. This relationship to celestial bodies formed the foundation for gender parallelism in Peru. Male religious leaders led the worship of the sun, and women guided the adoration of the moon.[14] This gendered hierarchy also extended to the political realm. A political hierarchy existed for both men and women, with women ruling women and men ruling men. Andean kinship also exhibited parallelism.[15] Women traced their lineage continually through their maternal side and men traced lineage continually through their

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[12] Karen V. Powers, "Andeans and Spaniards in the Contact Zone: A Gendered Collision," *American Indian Quarterly* 24, no. 4 (2000): 511-536.

[13] See, for example: Silverblatt, *Moon, Sun, and Witches*, 14-61; Powers, *Women in the Crucible of Conquest*, 15-27.

[14] Powers, *Women in the Crucible of Conquest*, 23.

[15] Ibid., 15.

paternal side. In the same manner, gender guided inheritance patterns. Mothers passed down possessions to their daughters, and fathers passed down possessions to their sons. Because of this parallel transmission of inheritance, women often attained land and power.[16]

Complementarity refers to the perceived relationship of the tangible actions of women and men. Just as Andean cosmology clearly established two distinct and gendered spheres, the duties and roles were often, but not always, dissimilar. Often men and women had distinct responsibilities. Though each gender often participated in expected roles, Andean societies placed equal value on the duties of women and men. Each gender's duties had to be executed to produce a positive result. In agricultural work, men plowed, women sowed and both shared in the resulting harvest. The most explicit evidence of the equitable value attributed to each gender's duties lie in the Inca tribute laws. Single men and women were exempt from tribute. Once married, the couple was jointly responsible for the tribute to the state. The Inca viewed the married couple as the essential unit for production.[17]

Spanish society had a much different idea about the status and abilities of women as well as their relationship to men. Gender was the single most important aspect that determined a person's status. Women throughout the Spanish Empire occupied a decidedly inferior social status to their male counterparts. This idea was deeply rooted in European civilization and was continued and bolstered by the Catholic Church. Church theology and many medieval and early modern religious writers commented on the spiritual weakness of women. Writers such as Fray Luis de León and Juan Luis Vives argued that women were prone to give in to temptations, especially carnal, sexual desires. They believed a woman had

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[16] Silverblatt, *Moon, Sun, and Witches,* 3-5.

[17] Ibid., 15.

stronger and more deviant sexual desires and were less equipped to handle them than men. Women's spiritual weakness can be traced back to the Bible. Referencing Eve, Fray Luis noted "from women came the beginning of sin and by her we all die."[18] This belief led Spanish society to institutionalize the protection of women from themselves. Spaniards tried to ensure that all women would be enclosed, meaning that they would be watched over by a responsible male. These places of enclosure included homes, convents, orphanages, and *recogimientos*, places for single women or women seeking divorces where their actions would not be questioned, although this institution rarely worked as effectively as intended.[19]

Spaniards also believed that the female mind was incapable of understanding spiritual matters. Spanish society depicted women as less intelligent than men, lacking the ability to think and reason rationally. This supposed mental weakness furthered the need for women to be enclosed. In this view, women needed a moral, intelligent man to guide and instruct them to live moral and honorable lives. These Spanish ideas about women differed from indigenous gender values. Whereas Andean mores viewed men and women as equals, Spanish patriarchy envisioned women inferior in every way to their male counterparts.

Powerful Pictures

Many historians have noted that pre-Hispanic Andean society practiced gender complementarity.[20] As stated above, men and women still had typical duties, but society

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[18] Fray Luis de Leon, *The Perfect Wife*, trans., intro., and notes by Alice Philena Hubbard (Denton, TX: The College Press, 1943), 132, as cited by Susan Socolow, *The Women in Colonial Latin America* (Cambridge: Cambridge University Press, 2000), 90.

[19] For an extended discussion of how these institutions functioned, see van Deusen, *Between the Sacred and the Worldly*; Kathryn Burns, *Colonial Habits: Convents and the Spiritual Economy of Cuzco, Peru* (Durham: Duke University Press, 1999).

[20] See, for example, Silverblatt, *Moon, Sun, and Witches*; Powers, *Women in the Crucible of Conquest.*

considered each gender's role to be equally valuable. Guaman Poma first shows this distinction in etchings in which both men and women work together in the same agricultural field. But Andean society did not limit complementarity to physical labor. Other gender-specific duties and roles, namely child rearing and combat, equally benefitted the family and *ayllu*, the community or social unit in the Andes. Guaman Poma also portrays this aspect of Andean gender norms.

The most common occurrences of complementarity in Guaman Poma's drawings display men and women sharing in the planting and harvesting of crops. One instance of this comes in Figure 1 that displays a group of men and women serving in their distinct roles: the male plowing and the female sowing. In these cases, the male and the female each serve a specific, necessary role in the planting of the unidentified crop. For Andeans, each role was equally important because cooperation between the sexes was necessary for an abundant harvest and the successful survival of the ayllu. In Figure 2, a picture of the first Andean man and woman each dressed in primitive leaf-robes and working the soil.[21] The male is plowing using the traditional Andean "digging stick," while the female is sowing on her hands and knees. These activities display typical Andean labor roles. All drawings in the chronicle of the planting season have the male and female performing these gendered duties.

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[21] Throughout this essay the drawing number of each picture, as given by the archive in Denmark that houses the chronicle, are cited immediately following the figure number. The chronicle, including all the etchings, can be accessed online at http://www.kb.dk/permalink/2006/poma/info/en/frontpage.htm.

Figure 1. Drawing 19. The first age of the Indians, *Vari Vira Cocha Runa.*

Figure 2. Drawing 97. The eighth month, August; *Chacra Yapuy Killa*, month of turning the soil.

Just as Andean men and women participated in planting, likewise both genders took part in harvesting. In Figure 3, the male is reaping the maize while the female gathers and carries it to the house. Similarly, in Figure 4 Guaman Poma pictured the harvesting of potatoes. Again the male works most intimately with the crop, removing the potatoes from the ground while the female carries them away. These two etchings imply that the male role was to remove the crop from the earth and the female role was to bring the crop to the place of storing or cooking. Each role was distinct, but again, necessary for the crop to benefit the family and the ayllu. The female could not carry the harvest to the house without the male pulling the corn off the stalk or removing potatoes from the ground. In the same vein, no one would benefit from crops pulled from stalks or the ground if they had been left in the fields because the female had not brought them in.

Another noteworthy aspect of Figures 3 and 4 is how the woman is performing the more physically grueling task. Though many of the separated gender tasks of the Andes might appear similar to twenty-first century Western norms, such as males plowing and females raising children, it is necessary not to superimpose Western norms upon Andean tradition. Particularly in Figure 4, the female is carrying a large sack of potatoes, undoubtedly heavy for someone of her stature. Meanwhile, the male is plowing using his "digging stick." This example shows that the physical difficulty did not determine whether an activity was necessarily masculine or feminine.

Figure 3. Drawing 390. May: Time of reaping, of gathering the maize; *Aymuray Killa*, month of harvest.

Figure 4. Drawing 391. June: Time of digging up the potatoes; *Hawkay Kuski Killa*, month of rest after harvest.

Using another form of labor, Guaman Poma portrayed complementarity in Figure 5, an image of two Andeans weaving. Before and after the Spanish arrival, garment making was a staple mode of production in the Andes. While often considered a female duty, Guaman

Poma illustrated that men also participated in weaving.[22] In this etching, not only are the two people weaving, but it appears that they are working on the same garment. The male is preparing the ball of yarn as the female uses a tool to weave the material. While the two are not performing the same duty, they work on separate tasks which contribute jointly to productivity. Each duty was essential to the production of the garment.

Figure 5. Drawing 21. The third age of the Indians, *Purun Runa.*

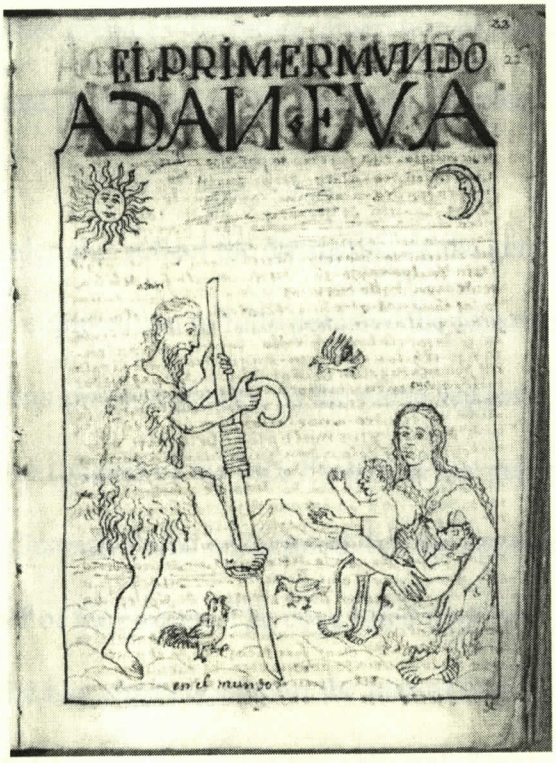

Figure 6. Drawing 7. The first age of the world: Adam and Eve, in an Andean landscape.

Guaman Poma displayed Andean complementarity in a different way in Figure 6. Here Guaman Poma drew Adam, Eve, and their two children, presumably Cain and Abel, yet placed them in an Andean setting. The Andean symbols, sun and moon, are seen in the top corners. Also, the mountainous horizon closely resembles landscape in Figure 1 of the first Andean couple. Adam is using the traditional Andean "digging stick," yet in this case Eve is

[22] Graubart, *With our Labor and Sweat*, 33.

not sowing. Instead, she is performing another female role as child-rearer in two distinct ways, nourishing and training. She feeds her breast milk to the child in her left arm. This milk provides health and nourishment allowing the boy to grow into a strong adult male. The child in her right arm is learning to plow. His arms are extended mimicking his father's action. The child's right arm is below and extended further than his left just like his father's arms. While the father prepares the soil, the mother prepares the future generation of men. Once again, both gender's roles are important, and, in the eyes of the Andeans, the roles would have been seen as equal.

The pictures which include only one gender also reflect the distinction of the gender spheres. We should begin with the syntax of the composition to fully perceive the separated genders. Though the majority of the chronicle runs chronologically, as the name suggests, Guaman Poma described the *inca* (king) and *coya* (queen) of the Inca Empire in two separate chapters, which illuminates two features. First, Guaman Poma understood that the coya was not merely the wife of the king but a ruler of half of the empire. The coya ruled over her sphere just as the king ruled over his. Second, the two chapters support the idea of two different histories, and thus two different worlds (or at the very least two spheres). Kings and queens would not be pictured together because their relationship to their respective spheres was far more important than their relationship to each other, even as king and queen.

Also, in "The Chapter of the Queens" Guaman Poma most often depicted the queen either alone or with female servants to each side. For example, in Figure 7 the second queen of the Incas occupies the center of the frame alone. Drawings 45 and 47 also follow this pattern (not pictured here). In Figure 8, however, the queen is centered with one female servant to her left and two female servants to her right. Drawings 41, 46, and 49 follow this

pattern (not pictured here). And when Guaman Poma placed males in pictures of queens, they do not serve her directly as the women do, but rather appear to be escorts. In each of the three examples, the men are wearing the same headpiece and have similar belts, possibly a military uniform. These drawings, even when men are pictured, reinforce the idea that the queen

Figure 7. Drawing 40. The second *quya*, Chinbo Urna.

Figure 8. Drawing 39. The first *quya*, Mama Huaco.

is the symbol of the female sphere. The queen possesses a direct relationship with the women pictured with her, while the men merely appear to be providing a service, possibly as soldiers or guards. This chapter highlights the nature of the queen and what she represented. The separation of the chapters on kings and queens and Guaman Poma's depictions show the extent of the female sphere led by the queen. These etchings present the queen as the representative of the female sphere and at times include the servants and vassals of her sphere.

The syntax in "The Chapter on the Inca Nobles and their Ladies" also displays the separateness of the gender spheres. Unlike the chapter on the king and queens, Guaman Poma neglected to separate the nobles and the ladies into different chapters, possibly because of their lesser status. He did, however, separate them within the chapter. Guaman Poma first listed all fifteen of the nobles and then the four ladies he included in the chapter.[23] Once again, Guaman Poma disrupted the chronology of his work to impart the distinction between the male and female spheres.

Similarly, "The Chapter of the General Inspection" replicates this method of separation a third time. In this instance, Guaman Poma listed the ten "streets" or age groups

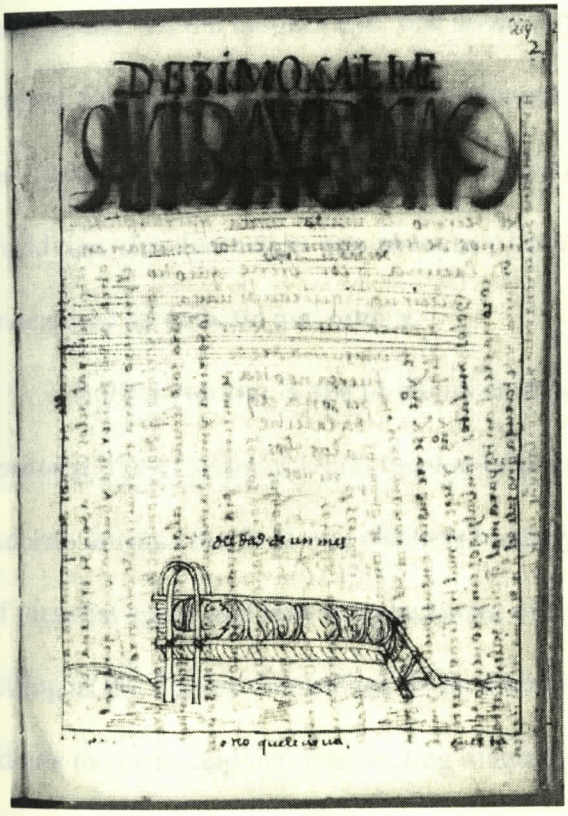

Figure 9. Drawing 79. The tenth "street" or age group, *k'irawpi kaq*, one-month-old babe in cradle.

Figure 10. Drawing 89. The tenth "street" or age group, *k'irawpi kaq wawa*, babe in crib, one month old.

[23] An explanation of the reason fifteen nobles are listed with only four ladies has yet to be answered by this author or any sources encountered in the research.

of men followed by the ten age groups of women. Each picture contains a single figure, which represents the age group for that gender. By separating the genders in this way, Guaman Poma painted a clear picture of gender parallelism in the Andes. As Guaman Poma portrayed, Andeans also viewed age through the lens of gender. In his drawings, and in Andean society, old age does not appear to have meant the same for male and female. While the chronology in each section is similar, and at times the drawings look analogous, Guaman Poma separated the divided spheres. In Figure 9, the picture of a male infant represents that stage of life in males. This picture's counterpart, Figure 10, represents infancy for females. Each child is in an Andean bassinet-like wrap on a simple landscape with nothing in the background. To the modern eye, one could argue, there is no part of the picture that would present the differences of the two experiences of being a male or female infant. And without the titles, distinguishing which is male and female would be challenging. But in the Andean worldview this distinction was necessary because the lives of men and women were understood as separate and unique.

Rolena Adorno is one of the most important scholars of Guaman Poma's *Nueva corónica*. In her seminal work, *Guaman Poma: Writing and Resistance in Colonial Peru*, Adorno devotes the final two chapters to analyzing the etchings. She outlines the importance of pictorial space and how the placement of figures on the pictorial of the etchings is as telling as the figures themselves. In an attempt to explore space and placement, Adorno adopts the dual-diagonal intersecting diagram, best exemplified by Figure 11, the *Mapamundi*.[24]

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[24] Adorno, *Guaman Poma: Writing and Resistance in Colonial Peru*, 83-91.

The *Mapamundi* shows a map of Peru with Cuzco at the center. The drawn roads establish the diagonals upon which Adorno bases her structure. In her analysis, the intersection of the two diagonals forms the central and most powerful, or prestigious, region on the pictorial field. According to Adorno, Guaman Poma often drew the most powerful leader or uncorrupted religious leader in that center. However, placement according to

Figure 11. Drawing 344. Mapa Mundi of the Indies of Peru, showing the quatripartite division of the Inka empire of Tawantinsuyu.

prestige affects the rest of the field as well. The top right corner (the viewer's top left) is the second most prestigious region on the pictorial field. The lower left corner (the viewer's lower right) is then the inferior position in relation to the top right. Adorno highlights how Guaman Poma frequently used the right/left-descending diagonal to portray power relations. And she notes how Guaman Poma often inverted these figures in order to critique, graphically, Spanish colonization. After establishing the diagonal axis of power, Guaman

Poma placed corrupt priests or abusive *encomenderos* in the lower right of the picture as a discrete way to critique them.[25] Adorno consistently shows the relationship on the right/left-descending diagonal as gods/humanity, good/evil, as well as male/female.[26] While this diagram proved effective for Adorno's argument, there is another diagram to apply to these etchings, particularly when considering gender.

The diagonal relationships described by Adorno highlight the power relationships of colonialism, while the structure proposed here illuminates gender relationships of colonial Peru. This different graphic analysis complements and extends Adorno's conclusions regarding colonial life and Guaman Poma's personality. The new diagram is one vertical line that splits the pictorial field into two sections, or spheres. In etchings where both women and men are pictured, Guaman Poma placed men and women on separate sides of the drawing. Most often, the pictures display women on the left (viewer's right) and men on the right (viewer's left). The two-sphere structure can be seen in 39.7% of pictures which include both genders (or 29 of 73) when the division occurs at the center or near-center. In another eleven drawings, men and women are divided, though off-centered, with either male or female occupying the majority of the frame. Several other frames divide male and female but have a religious figure, God or priest, occupying the middle of the frame. This structure can then be analyzed because of its consistency. I argue that Guaman Poma's pictured dualism reproduced the Andean dual spheres and, in turn, gender norms of parallelism and complementarity.

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[25] Ibid., 92-95.

[26] Ibid., 99.

Examples of this divided sphere exist in etchings that have been examined previously in this essay. In Figures 1 and 6, the "digging stick" serves as the physical divider of the two spheres. In the first drawing, the stick separates Adam and Eve and in the second it separates the first Andean male and female. In each instance, the male is on the right and the female is on the left. While the two presumably male children (likely Cain and Abel) are found in Eve's arms in Figure 6, the right side is accurately and meticulously portraying the role of the female in the rearing of children.

One of the most blatant examples of this diagram is Figure 12. In this etching, Saint Bartholomew occupies the right (viewer's left) and a female (likely Mary or Martha) occupies the left (viewer's right). The cross actually serves as the vertical line separating the two spheres. This portrayal suggests that Ayala believed the division between the spheres to be divine. While this concept is less apparent than the simplified divided sphere, other

Figure 12. Drawing 28. Saint Bartholomew in the province of Collao.

Figure 13. Drawing 245. The sacrament of matrimony.

pictures contribute to its validity. Figure 13 portrays a marriage ceremony with the man on the right and the woman on the left. The priest occupies the center and once again acts as the divider.

Figure 14 provides another example of this division, though no men or women are present. In this drawing God is holding the Sun (male) in his right hand and the Moon (female) in his left hand. Given that Guaman Poma was a self-proclaimed Christian and that the title caption reads *God, Creator of Heaven and Earth*, we can assume that Guaman Poma believed and represented that God created and ordered the world. That Guaman Poma drew God holding the symbols for the male and female sphere to the right and left, respectively, suggests the divine ordination of the separation of the gender spheres.

Guman Poma's representations of Christianity and the divided spheres illustrate the complexity of Andean assimilation into the Spanish colonial system. Figure 14 clearly inputs Andean gender norms into a European Christian narrative. Guaman Poma places conceptions of Andean gender onto the understanding of the Christian God. Also, his constant portrayal of Mary draws attention to the apparent need for Andeans to have a female deity. Without Mary, Andean conversion would have been highly unlikely. Even though Catholic theology distinguished between the divinity of Mary and the Trinity, Guaman Poma's representations suggest that Mary played a significant role in the Andeans' perception of Christianity. The gendered native religion of the Andeans instilled the need for both male and female deities. The presence of images of and sermons about Mary allowed the Andeans to more readily understand and ultimately accept Catholicism.

Interestingly, Guaman Poma also included Europeans and Africans when drawing the divided sphere. In Figure 15 the Spanish man occupies the right and the woman the left.

Figure 14. Drawing 332. God, the creator of heaven and earth.

Figure 15. Drawing 220. Castillian-born Spaniards, well-instructed and honorable Christians.

While there is no physical divider within the frame, the man is clearly right of center and the woman clearly left. Also, Drawing 158 (not pictured here) shows a similar picture with Spanish male and female, on the right and left respectively. Guaman Poma placed Africans in the divided-sphere model in Figure 16. In this image, the couple is kneeling and praying to a picture of the Virgin Mary. The male and female are in their respective spheres as the image of Mary occupies the center. Once again, this divine figure acting as the separator implies the ordination of the divided sphere, even for the non-Andean Africans.

These previous examples of the two-sided diagram show how Guaman Poma often visually portrayed the Andean norms of gender parallelism and complementarity. But not all of Guaman Poma's etchings abide strictly to the two-sided diagram, which I have suggested we use to analyze his images. In the same way that Rolena Adorno showed how Guaman

Poma would invert the diagonal line of hierarchy to critique colonialism, the etchings in this chronicle which contradict the dual-sphere could also have served as critiques of Spanish rule in the colonies.

Guaman Poma deviated from the dual-sphere diagram in two ways to critique colonialism. In the first method he clearly portrayed two sides, one male and one female. But the axis that divides the picture is "broken" by someone or something that represents violence. The second method completely defies the diagram by showing figures that share space on the frame. Visually the persons pictured "overlap". Often, Guaman Poma depicted violence and immorality when this "overlapping" occurs, especially when a crowd is not involved. In joining physical abuse with discontinuity of the dual sphere, Guaman Poma

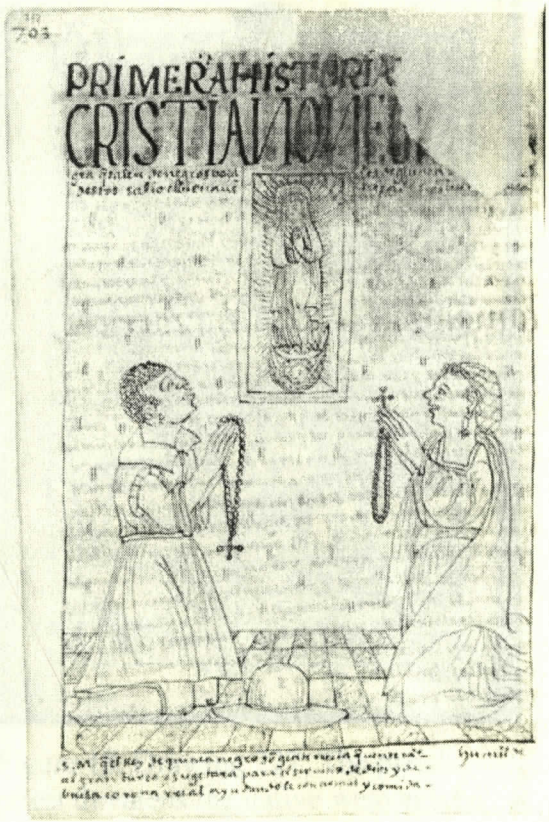

Figure 16. Drawing 275. Devout black Christians from the stock of unacculturated black slaves from Africa (Guinea) say the rosary before an image of the Virgin Mary.

Figure 17. Drawing 231. "Bad confession": a priest abuses his pregnant parishioner during confession.

connected the violation of person and space. He viewed both violations as going against the natural order and, to use his own phrase, epitomizes "a world turned upside down."[27]

In Figure 17, the dual sphere is nearly complete. The picture shows a priest kicking a pregnant indigenous woman in her stomach during confession. Although the male priest is on the left and the indigenous woman confessing is on the right, the two at first glance appear to occupy separate sides, or spheres, of the frame. Only the priest's leg crosses the imaginary vertical line that divides the sphere. The same implement that violates the sphere is also the instrument of abuse. Figure 18 shows much of the same. Once again the two figures are divided in the uncommon fashion with the male on the left and the woman on the right. The

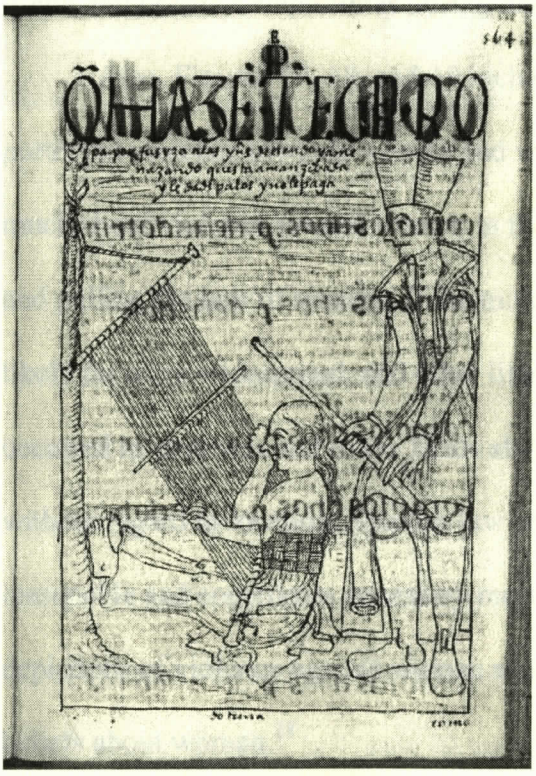

Figure 18. Drawing 227. The parish priest threatens the native weaver who works at his command.

Figure 19. Drawing 257. Wrathful, arrogant Dominicans force native women to weave.

[27] "el mundo al rrevés." Ayala, *El primer nueva corónica*, 222.

priest is hitting or threatening to hit the indigenous female weaver with a stick, which is violating her sphere. In both examples, violence invades and compromises the female sphere.

Figures 18 and 19 also show the dominance that men had over women in the Viceroyalty. In each drawing, the male is instructing and possibly reprimanding the work of the women. Each picture has the woman sitting as the male towers over her. A similar depiction of the male towering over the woman occurs also in Figure 17. These etchings display the hierarchy that existed in colonial society. Men occupied the top of the social strata and were responsible for instructing and correcting women, with force if need be. This display of the Spanish gender hierarchy appears nowhere in the early etchings of Guaman Poma, but occurs several times during his descriptions of the post-conquest era.

Also, Figures 17, 18, and 19 include violence toward women. Where Guaman Poma portrayed violence towards women and whom he portrayed committing the violence say much about violence toward women in that society. In all cases, priests are hitting, kicking, and pulling the hair of women. If the moral superiors of the society did this, the practice was likely far more widespread, and other literature confirms that assumption. That the violence occurred in churches and in the fields also suggests that violence toward women took place without regard to location. Spanish law permitted the physical discipline of women as a reasonable and sometimes necessary means to train or correct women. Guaman Poma's depictions of violence against woman show that he had witnessed the practice of Spanish beliefs about women.[28]

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[28] This is not to say that domestic violence did not occur in Peru before Spanish arrival. This section does contend that such acts were accepted by Spanish culture but not by indigenous values.

Figure 20. Drawing 276. Good blacks endure the abuses of their master with patience and the love of Christ.

Figure 21. Drawing 120. Capital punishment by stoning of adulterers, or *wach'uq*.

The pictures that contain women "overlapping" men show a contradiction to the dual-sphere model. Figure 19 portrays the violation of the spheres via overlapping. The Dominican priest in this etching shares the left of the frame with the indigenous female weaver. He occupies the background, while she occupies the foreground. The priest is pulling her hair and forcing her to weave. Where the previous examples displayed minimal violation of the spheres, this etching shows complete violation of the spheres where the intended divide is indiscernible. In Figure 20, an African couple overlaps on the right of the frame with their master, likely Spanish given his attire, on the right. The master is beating the

couple while they endure his abuse "with patience and the love of Christ."[29] Once again Guaman Poma's portrayal equates the lack of a dual sphere with violence.

Guaman Poma also related the absence of gender dualism with immorality. In Figure 21, an indigenous man and woman "overlap" on the right of the frame with two indigenous men on the left. The two men are stoning the couple as a punishment for their adultery. In this drawing Guaman Poma connected immorality with the absence of the dual sphere. Figure 22 relates much of the same. The young man and woman again "overlap" on the right while an indigenous man on the left pulls the rope to hang the two. The caption comments that this hanging is their punishment for fornication. That Guaman Poma specified their youthfulness, their offense was probably premarital sexual relations. The maintenance of the sphere is directly related to the maintenance of public morality. A puzzling, yet noteworthy, aspect of Figures 21 and 22 is that in each case the female is foregrounded in the picture. That the woman in one picture hangs, and the woman in the other picture kneels, in front of the male implies the guilt of the women. In both drawings, the immoral action was sexual. These etchings articulate the Spanish belief that women were morally weak and particularly prone to commit sexual sins. By placing the woman in the front of the frame, Guaman Poma rested the majority of the blame on her for the sexual sin. The woman's occupation of the central focus makes her a representation for

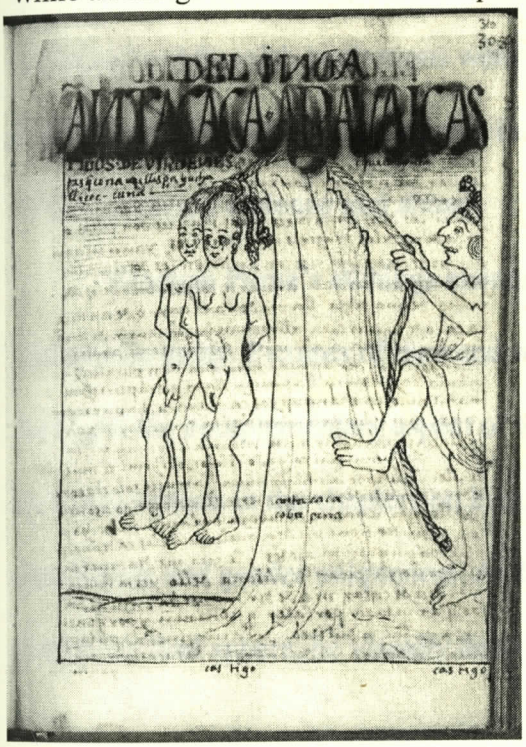

Figure 22. Drawing 121. The Inka's punishments in Anta Caca of youthful fornicators, *thaskikuna waqllispa huchallikuqkuna.*

[29] Ayala, *El primer nueva corónica*, 706.

the immoral act. Spanish gender ideals would, likewise, fault the woman for giving in to her sexual desires.

Even the images in which the dual sphere diagram is absent or violated, Guaman Poma's art implies the importance, and moreover, the natural, moral order of the gender divided world. Meanwhile, he also intermittently included representations of Spanish gender prescriptions that had become prevalent during his life. That the majority of the etchings reflect Andean gender values is of little surprise, as Guaman Poma was first an Andean man. But the new gender ideals from Spain became more prevalent as Spanish population increased and Spanish institutions were established, the most important of which was the Catholic Church. Also, often in other images where sphere partition is breached, Guaman Poma portrayed violence and abuse.

Guaman Poma's etchings exemplify Andean gender parallelism and complementarity. Pictures of men and women working during planting and harvesting season highlight the complementary aspect of the Andean society. The separation of the treatment of men and women in the chapters on kings, queens, and Andean ages points out the gender parallelism and gender uniqueness. And in the way Guaman Poma depicted and failed to depict the dual sphere, he visually described a gendered Andean worldview.

Effects of the Collision

In his etchings, Guaman Poma portrayed aspects of pre-Hispanic and European gender ideals. Guaman Poma was a byproduct of the colonial collision illustrated aptly by the fact that he was a Christian indigenous man pleading for an Andean-ruled colony under the

King of Spain. By the time he wrote his chronicle, Spanish culture had already greatly influenced Guaman Poma, and this influence pervaded his gender ideals as well.

While we see distinct aspects of Andean and Spanish gender ideals in Guaman Poma's etchings, the result of the gendered collision for colonial society was significantly more convoluted. The official legal gender norms remained inline with Spanish conceptions of male and female. Gender complementarity and parallelism rarely existed and took place in extralegal venues. Some female indigenous leaders were able to continue to rule their provinces through their husbands, but for the most part, colonial rule stripped women of their power and status. Complementarity and parallelism were, for the most part, slowly eliminated from Peruvian society as the Spanish increased their control.

The overall outcome of the gendered collision held no good news for the women of the Viceroyalty of Peru. Women in the Andes during the colonial period were second-class citizens. Spanish ideas about the mental and spiritual inferiority of women carried over to the New World. Enclosure of women was as frequent in the Andes as it was in Spain. Men were the leaders of the Viceroyalty, of the community, and of the family. Women were subject to their rule and expected to obey the men in leadership positions over them. While Spanish women in Peru may have viewed these gender ideals as natural and normal, this chapter shows that patriarchy was a Spanish import to the Peru. A much more equitable concept of male and female had existed before Pizzaro defeated the Incas. This new male dominated society was a result of the gender collision in which the conquering peoples' ideals overwhelmed the conquered peoples' values.

Historian Susan Socolow has argued that women in Latin America "were defined first and foremost by their sex and only secondarily by their race or social class. In many colonial

documents the lack of attention to women's race and class suggests that these attributes were malleable. Sex was not."[30] This social hierarchy left women of all races and classes at a distinct disadvantage. Women in Peru had fewer opportunities for financial success than men. They were also subject to physical abuse from their male counterparts, a part of society that Guaman Poma vividly portrayed.[31] As has been seen in Guaman Poma's etchings, more equitable gender values existed in the Andes before the establishment of a colonial government. As the Spanish established their rule, they imposed a male-dominated social system. The following chapters will show multiple examples of how this system permitted abuse and other injustices committed against women and examine how they dealt with these problems within the patriarchal colonial society.

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[30] Socolow, *The Women of Colonial Latin America*, 1.

[31] See, for example, Drawings 227, 231, and 257.

CHAPTER 2

MARRIAGE, DOMESTIC ABUSE, AND DIVORCE IN COLONIAL LIMA

Introduction

By the early seventeenth century, the gender equity that Guaman Poma depicted in his etchings had been replaced with Spanish patriarchy. Men had become, for the most part, the unquestioned leaders of their family and the community. This male dominance also permitted, in varying degrees, the abuse of women. Though women were most certainly viewed as the inferior gender in Spanish society, their situation was considerably more elevated within the letter of the law. The judicial system, both secular and religious, guaranteed women power and, to some extent, independence in the economic and judicial sectors. Women in Spain and Spanish America could own businesses and litigate on their own. This chapter highlights the extent of domestic abuse and the surprising semi-autonomy enjoyed by women in Lima during the seventeenth century by examining divorce cases from that time. The wives documented in the following pages experienced harsh treatment from their husbands, many of whom believed they were entitled to punish their wives as they saw fit. Yet the system that permitted men to "correct" their wives with physical force, at the same time also granted women the ways and means to protest treatment that surpassed accepted standards of physical force. Fortunately for the women in Lima, the Spanish legal system afforded them a means to combat the abuse and neglect they encountered in their

relationships. This chapter examines *divorciadas* (women seeking a divorce) and their divorce cases to gain insight into marriage and the power women held in colonial Lima.[1] The following pages will cite numerous ways in which women in Lima were abused, mistreated, and neglected by their husbands and how, to an extent, this treatment was tolerated. Yet when wives were pushed beyond their threshold, some of them took action permitted to them through colonial law.

Legal Status of Women

The legal status of women of the Spanish empire can be traced back long before Spanish conquistadores set foot on the South American shorelines.[2] As the Spanish forces were retaking southern Iberian territories from the Moors, new *fueros* provided women with certain privileges. These *fueros extensos* were law codes written for new settlements that determined what was acceptable behavior for their inhabitants, both current and future. Empowered by these fueros, the women of southern Castile had the right to inherit, acquire, and own land. These laws also established a line of inheritance that favored the wife and her family. If a woman died without children, her birth family, not her husband, would receive her inheritance.[3]

As the Spanish crossed the Atlantic and imposed a Spanish legal system in Peru and the rest of the colonies, the law retained protection for the rights of women. These rights,

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[1] The cases cited in this thesis were held in the ecclesiastical courts of the diocese of Lima.

[2] Some have traced the legal rights for women all the way back to Roman law of the sixth century. This Roman law is believed to have played a large role in the forming of Spanish law through the Medieval and Early Modern periods. See, for instance, David Andrew Norton, "Women in the City: Women as Economic and Legal Actors in Valladolid, Spain: 1580-1620," Ph.D. diss., University of Minnesota, 2005, 13-15.

[3] Ibid.

moreover, endured into the latter half of the eighteenth century, when women's rights began to suffer setbacks. One of these reversals was the reinstitution of necessary parental consent for marriages. During this latter period, husbands also gained more control over their wives' property.[4] The reason for this regression has received little study and merits future scholarship and closer attention by researchers. Historian Patricia Seed has noted that marriage consent became open for debate as morality and conduct became vaguer. One reason for this deterioration can be seen in the growing ambiguity of engagements. From 1670 to 1730, men began to frequently fail to honor their promises to marry. Also, because Catholic law required a priest to witness vows, these men were able to swear to marry, engage in sex with their partners, and then refuse to fulfill their marital promises. This abuse of the system lured parents to actively participate in the system and ultimately gain a "say" in the process.[5] But before the regression of women's rights, women in Peru often took full advantage of their law-given privileges.

One of the greatest legal entitlements women in Peru received was control over their dowry (*dote*) during and after marriage. The dowry was the sum of money, property, and land that the women brought into the marriage, often an advance on her inheritance. The law was clear that women were to have full control over their dowries throughout the duration of the marriage. This right, too, could be traced back to Medieval Castile. The dowry contract signed by the couple clearly stated the limitations of the husband's control over the items. According to one court statement, the husband "promises and obligates himself to maintain

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[4] Gauderman, *Women's Lives*, 7-8.

[5] Patricia Seed, *To Love Honor and Obey in Colonial Mexico: Conflicts over Marriage Choice, 1574-1821* (Stanford: Stanford University Press, 1988), 96.

them [the dowry contents] in permanence and stability."[6] Because of the intimidation and pressure that husbands could put on their wives, the colonial courts rarely approved contracts permitting a husband to control his wife's dowry. These dowry rights experienced by women in Peru exceeded those held by women in many European nations during the same period.[7]

Women's protected status also extended into business transactions. Women had open access to make, buy, and sell commodities. This right made them critically important participants in the economies in Spain and the New World. Historian David Norton has argued that in early modern Valladolid, Spain, Spanish law gave women the right to buy, sell and own property and moveable goods and that these rights made them vital actors in local economies.[8] This same Spanish law, which was brought to the New World nearly intact, afforded women in Peru the same rights, and therefore they too played a significant role in the economy. In the Andes, for instance, women street vendors are part of a legacy stretching back to the colonial period that has survived even to today. During the sixteenth and seventeenth centuries women produced and sold clothing, *chicha,*[9] and bread, as well as other goods.

The most important women's right to this study was their unfettered access to the judicial system. Women could and did write wills, file lawsuits, and as this chapter will show, petition for divorce. In the latter half of the sixteenth century and throughout the seventeenth century, women frequently petitioned the ecclesiastical courts to free them from

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[6] I Notaría, vol. 161, 1638, Archivo Nacional del Ecuador, Quito, fols. 14-19, as cited by Gauderman, *Women's Lives*, 34.

[7] Lisa Vollendorf, "Good Sex, Bad Sex: Women and Intimacy in Early Modern Spain," *Hispania* 87, no. 1 (2004): 3.

[8] Norton, "Women in the City," 164-165.

[9] A fermented corn beverage.

their marriage. The following sections will outline the process and importance of marriage and how certain wives in Lima went about dissolving these marriages to separate themselves from abusive and neglectful husbands.

Marriage, the Church, and the Council of Trent

In colonial Peru and throughout the Spanish empire, marriage was a holy sacrament, sacred to the almost entirely Catholic population. When a couple married they committed their lives to each other, but more importantly, they formed a covenant between themselves and God. According to the church, this covenant was eternal and could never be broken. Once the partners exchanged vows, normally overseen by a priest, and consummated their physical bond, the two were considered one until death.

While marriage was foremost a religious sacrament, it was also an institution vital to the social atmosphere of Peru, as it had been in Spain. As historian Heath Dillard has pointed out for Medieval Castile, marriage was necessary for the stability of a frontier; and thousands of miles from the King of Spain, Lima was most certainly the edge of the frontier in the late sixteenth and early seventeenth centuries. In *Daughters of the Reconquest: Women in Castilian Town Society, 1100-1300*, Dillard contended that "(w)omen, above all, were the indispensible agents of transformation in the process by which a mere fortress of soldiers became a permanently inhabited town."[10] Married men, especially those with children, were much less prone to packing up and moving. Having established families gave a frontier town a chance of achieving substantial population and organization, which would deter Muslim armies from attempting counter-attacks. Due to the invaluable status of women on the

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[10] Dillard, *Daughters of the Reconquest*, 214.

frontier, Dillard argued that town laws facilitated an increased status and power of women in medieval Spain.[11]

While the Viceroyalty of Peru was several centuries and an ocean away from Dillard's Castilian towns, the two societies had much in common. The need for women was as great in the New World as it had been in southern Iberia. Spanish settlements in the colonies, and conquistadors in particular, needed women to produce offspring and increase the Spanish/Christian population. The higher the Spanish population in a town, the more Spanish law, custom, language, and religion would be observed and protected.

The process of marriage in colonial Peru was systematic and sometimes quite complicated. As the protector and purveyor of the institution of marriage, the church ensured that couples followed the necessary steps in order for the marriage to be a legitimate one. The first step in a marriage was a promise of the couple to be married. The informal nature of this act caused problems because men could promise to marry a girl, violate her virginity, and then move on to another woman. Ideally, this promise would be made public and the wife's family would begin assembling a dowry. During the period of time before the marriage, the priest would also investigate each party to ensure that neither party had any impediments that should prevent the two from marrying; for example, a vow of chastity or a commitment to a religious order. At some point before the marriage, the eminent wedding would be made public through the pronouncement of marriage banns, the public declaration of the intended union. On at least three consecutive Sundays, the priest would announce the planned wedding. This proclamation would ensure that anyone with knowledge as to why the two should not marry would be able to come forward and prevent a bigamous or otherwise

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[11] Ibid., 213-220.

illegitimate union.[12] Given that no one came forward with any convincing evidence of why the two should not marry, a priest in the presence of at least two witnesses would marry the couple. Depending on the economic status of the couple, this ceremony would have been a community affair or simply could have taken place in front of the necessary witnesses and the priest. According to Catholic theology, as soon as the marriage was consummated the two were then forever joined together in the eyes of God and the Church.[13]

Though the physical distance from the Pope and the King of Spain usually left European prescriptions in Peru suggestive and hotly contested, the Council of Trent's declarations in 1563 made priests and other socialites sensitive to abiding by and enforcing proper Catholic theology, which included matrimonial practices. The Council of Trent was a vital point in the religious upheaval that was sixteenth century Europe. As Martin Luther's followers spread out from Germany and Calvinism infiltrated France and the rest of Europe, the Catholic Church's survival seemed in jeopardy to church leaders. New theology, which evolved from reformation leaders such as Luther, Calvin, Huss and others, threatened Catholic beliefs and the sovereignty of the Pope. With the church at its weakest state, possibly ever, Pope Paul III called the Council of Trent, the first council in more than 30 years.[14]

According to the papal bull, the Pope called the council to address "the uprooting of heresy, the restoring of peace and unity, and the reformation of ecclesiastical discipline and

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[12] The practice still exists today in Lima. Local newspapers run the betrothed couple's names, making the general public aware of their intentions.

[13] Behrend-Martinez, *Unfit for Marriage*, 32-35; Luis Martín, *Daughters of the Conquistadores: Women in the Viceroyalty of Peru* (Albuquerque: University of New Mexico Press, 1983), 104-107.

[14] Martin D. W. Jones, *The Counter-reformation: Religion and Society in Early Modern Europe* (Cambridge: University of Cambridge Press, 1995), 65-66.

morals."[15] The Council served to unify the Catholic Church and publicly declare the unquestionable beliefs of the Church. Historian Martin Jones went so far as to label Trent a "theological Berlin Wall," as it drew the line between Catholic and non-Catholic doctrine.[16] Some historians have argued that Trent was simply the tangible evidence of the overall status and direction of the Church.[17] This theory, however, neglects to consider the strides made during the meeting. The increase in attendance from the opening of the Council to its completion in 1563, coupled with mere duration of the event, suggest that Trent was indeed an acceleration, if not a turning point, in the Counter Reformation.[18]

During this important council, the Catholic Church refined and reaffirmed their stance on the sanctity of marriage. The Church in the Viceroyalty of Peru sought to abide by and enforce the letter and spirit of the decrees of Trent despite the certain differences between their colonial world and Europe. The clear, thorough outcome of the Council of Trent provided strict guidelines on marriage, leaving little ambiguity. The canons guided the practice of marriage in Peru, at least to some extent. Trent's first canon affirmed that marriage was, indeed, a holy sacrament. The sixth canon insisted that a marriage without consummation could be dissolved. Canons five and seven emphasized that marriage could not be dissolved based on heresy, abandonment, or even adultery. In canon eight, the Church

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[15] Papal bull of Pope Paul III, 13 December 1545, as cited in Jones, *The Counter Reformation,* 68.

[16] Jones, *The Counter Reformation*, 68.

[17] For example, Hubert Jedin, "Catholic Reformation or Counter Reformation?" in *The Counter-Reformation: The Essential Readings* (Oxford: Blackwell Publishing, 1999), 38-40.

[18] At the beginning of the Council, 75% of the bishops were Italian and 10% were Spanish. In 1562, a large French cohort arrived.

did assert that a separation could be granted.[19] That the Council of Trent addressed marriage so thoroughly, and more, that the first canon declared marriage one of the seven holy sacraments, speaks to the importance that marriage held at the time in the Catholic faith and the need to ensure a consistent orthodoxy within the Church.

Divorce

The last canon issued about marriage at the Council of Trent proclaimed that matrimonial matters "belonged" to ecclesiastical judges, and in Lima, only ecclesiastical judges presided over divorce cases. Their rulings in the trials examined in this chapter are rooted in the declarations of the Council of Trent. Of the twelve canons at the Council, five addressed what could or could not dissolve a marriage. Another canon validated the Church's right to grant separations to married couples. As many as half of the official canons that resulted from Trent's discussion on marriage addressed ending or altering the marital union. The prominence of such ecclesiastical legislation suggests that the longevity of marriages in Europe was decreasing. Though the Viceroyalty of Peru was only in its infancy, the endurance of matrimony was already in jeopardy there, also. The clash of two different gender ideologies in the new settlements and the varied populations of races and genders contributed to issues and inconsistencies within marriages in Peru. Trent's declarations intended to clarify all misgivings and ensure the sanctity of marriage in Europe and the colonies.

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[19] Rev. H.J. Schroeder, O.P., trans., *Canons and Decrees of the Council of Trent: Original Text with English Translation* (New York: Cail-Ballou Press, 1941), 181-182.

So after the Council of Trent, the approved parameters of marriage seemed clear. Though marriages could be deemed invalid, a legitimate marriage was unbreakable. Those unhappy with their marital situation could end the relationship in one of two ways, both known as types of *divorcío* (divorce). The first was to claim that the marriage had never been valid and appeal for an annulment within the ecclesiastical courts. Annulments were only granted if the marriage never had been consummated or had been entered into under false pretexts. These false pretexts ranged anywhere from an earlier undisclosed marriage to a previous vow of chastity. If the ecclesiastical judge ruled that the marriage was indeed valid, the only other option to the couple to "end" the marriage was a *separación*.

A legal separación, or divorce, relieved the couple from any obligation to each other. They no longer had to live together or provide for the needs of the other spouse. Their money and possessions were split according to the law, which granted women an equal share; a wife received her dowry back, as well as any other possessions she had brought into the marriage. The woman also received half of the possessions and money that the two had acquired since their union. This process was the prescribed norm in both Spain and Peru, although, husbands and wives certainly sought ways to gain larger shares than they were owed.

Judges did not grant divorces simply because a couple was no longer amiable. The viable reasons for a divorce were few. Historian Kimberly Gauderman compiled a clear and concise list of acceptable reasons for divorce that bears quoting here:

> *Divorce could be granted if one of the spouses committed adultery, was cruel, or physically mistreated or threatened to kill the other; if one of the spouses attempted to convince the other to commit crimes; if one committed "spiritual fornication" by engaging in heretical or pagan acts; if one contracted an incurable and contagious disease or suffered from insanity; or if one of the parties was infertile... one of the*

spouse's entrance into a religious order, after having obtained the license of the other spouse.[20]

While these reasons officially merited a divorce, the ultimate decision was left up to the ecclesiastical judge. The church courts had religious guidelines from which to draw their decisions, but within the process, there was still much ambiguity. Precedent was not a hard, fast rule in these proceedings and most often the party asking for divorce had to prove their case far and above any doubt.

The case would begin when the disgruntled party filed suit in the court. This initial complaint, known as a *demanda*, was often written by the plaintiff's lawyer and then given to the judge. Within the first several lines, the plaintiff identified herself/himself and their spouse and requested the divorce. This introduction was followed by the plaintiff's brief account of the history of the couple--how long they had been together, whether they had children and where they had resided--and the major offenses committed by the defendant. Fairly often, this section would also include several claims of the upstanding and Christian conduct of the plaintiff. This first petition usually ranged from one to three pages. After hearing or reading the demandas, the judge chose whether or not to hear the case. If the case were dismissed, the wife would have to return to her husband's house, where she would likely endure punishment for her betrayal. If the judge felt the case held merit, the case would continue until he had made a decision.[21]

There was no comprehensive structure after the first petition; however, several contents are fairly common in most cases. One section that occurs frequently in trial transcripts is the restating of the focus of the trial. This section includes the date, city, parties

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[20] Gauderman, *Women's Lives*, 50.

[21] van Deusen, *Between the Sacred and the Worldly*, 86.

involved, and request of the plaintiff. Most divorce proceedings also contain testimonies from witnesses from both parties. In many cases, the judge or a lawyer drafted a predetermined set of questions to ask each witness. The questions would be open-ended, allowing the witness to speak at length about any aspect of the marital relationship. Often the first questions would establish the connection the witness had to the couple, while subsequent queries asked the witnesses' knowledge about certain events cited by one of the spouses.[22] The outcome of many cases cannot be determined from the transcripts that exist today. Whether the couple resolved their dispute outside of court, the judge's verdict was never recorded, or the pages were lost will likely remain a mystery for some cases. For the others, the judge either commanded the woman to return to her husband's house, citing insufficient evidence for a divorce, or sided with the wife and freed her from her conjugal commitment to her husband.

Reasons for Discontent

The most frequent reason why wives sought divorce in Lima was domestic violence. Transcripts of divorce cases from Lima are filled with citations of physical abuse. Domestic violence was common in the Viceroyalty of Peru, and to some extent, was acceptable behavior for husbands. A man had the right and the duty to ensure that his wife lived an honorable life. If her actions were ever questionable, the husband had the obligation to correct her, and men often reprimanded their wives physically as a means to address the supposed wrongdoing. While church law did not condone excessive abuse or abuse without

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[22] Archivo Arzobispal de Lima (AAL), Divorcio, 1617, Isabel de la Rate contra Francisco de la Vega Capata.

noble intentions, there was no "rule of thumb" in colonial Latin America, leaving men virtually free to act as they pleased.

One example of domestic violence can be found in the case between Francisca de Los Reyes and Juan de Lava. In 1601, Francisca formally requested that the court issue a divorce. In her initial petition, she cited the abuse she had endured at the hands of her husband. Shortly after introducing herself and her family--she had two daughters, ages nine and four--Francisca summarized the worst of Juan's treatment during their marriage:

> *[S]ince the point that I entered into the power[poder] of my said husband until the present, I was done so cruelly and mistreated like no slave ever experienced... Because of the common measure of the blows, kicks and punches. And he grabbed me by the hair and wanted to kill me more than 50 times with a sword, naked in the deserted countryside and in the barn [or on the ranch] where he brought me...*[23]

Francisca's testimony here paints a bloody, violent picture of marriage in the Viceroyalty of Peru. She accuses Juan of punching and kicking her, and even stabbing her with the intention of murder. That this type of brutality was being heard first in the divorce court, as opposed to a criminal case for attempted murder, is evidence of the way marriage disputes were handled in the colonial era. Had the same violent altercation taken place between two men or two women, or even a man and woman who were not married, the community and the secular courts would have handled the case much differently. But because the two were married, their conflicts were a private matter and meant to be taken care of without secular intervention. The only venue to remedy such abuse was the

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[23] "*y desde el punto de entre en poder de suso dicho hasta el presente me ha hecho tan cruel y maltratamiento que ninguna esclava expiana...Por que de ordinario meda palos, cozeos, y bofetadas, y me arrastra de los cabellos y hay querido matarme mas de cinquenta veces con una espada desnuda en campo despobleado y en estancias por donde me â traido.*" AAL, Divorcios, 1601, Francisca de los Reyes contra Juan de Lava, fol. 1.

ecclesiastical divorce court. By taking her spouse to court, Francisca asked the Catholic judge to free her from the abuse of her violent husband.

Not believing there was another way to avoid harm to her body and her life, Francisca sought to separate herself from Juan through divorce. To be successful, however, she had to prove that his actions were indeed excessive. In her first comments to the judge in the divorce case, Francisca recounted the terrible treatment she received at the hands of her husband. Early in the case, she tried to make clear that her husband's actions were not noble or instructive, but simply cruel and unjustified. Her first statement altered the perceived relationship between the couple. In order to sway the judge, she tried to replace the husband/wife paradigm with a master/slave relationship.

Before reciting the details of her mistreatment, Francisca claimed that she suffered treatment worse than any slave.[24] This characterization shadowed the specifics of her abuse with a comparison to a slave. Even with the decidedly inferior position of women in colonial society, treating a wife like a slave would have been unacceptable. While a husband had the right and duty to instruct and punish his wife, he was equally obligated by the Church to treat his wife with love and compassion. By failing to do so, he was falling short of his responsibilities as a husband. The invocation of a slave comparison helped Francisca show the judge that her husband's treatment was not meant to teach or correct her, but rather, it was an unjust fit of rage that no one of any status, including a slave, should have to endure.

Francisca was not the only one who invoked the master/slave comparison. In 1622, Geronima de San Francisco requested a divorce from her husband, Diego Gernandes. She began her demanda by insisting that, in the entire time that they had been married, Diego had

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[24] AAL, Divorcios, 1601, Francisca de los Reyes contra Juan de Lava, fol. 1.

treated her horribly out of hatred. After detailing her abuses, Geronima stated that "and much worse he treats me not like a wife but like a slave."[25] Here Geronima explicitly critiques the failure of Diego to fulfill his duty as a husband and treat his wife appropriately. By using the slave comparison, Geronima was trying to place Diego's character in doubt. Geronima also furthered the deplorableness of Diego's actions by insisting that his abuse was "without reason and no fault of mine."[26] Geronima included this clarification to preempt any justification that Diego might invoke. Men, striving to keep their wives, would give the court a reason why they abused, or corrected, their wives. Often these accusations included a wife staying the night away from home, being seen in public with another man or anything else that would dishonor her, and in turn himself. With her depiction of the nature of the abuse and her portrayal of his character, Geronima wanted to precede any excuses Diego might have for his actions.

In 1614, Elena Garcia requested a divorce from her husband Martin Garcia. She began her demanda much like Geronima and Francisca. After stating her request for the divorce, Elena stated that Martin had often treated her very cruelly. Before recounting the details of the abuse she experienced, she made a claim similar to the two other divorciadas. She said, "Since we married, the life of a slave was done to me."[27] After that comparison, Elena proceeded to disclose the numerous abuses she suffered at the hands of Martin. Yet, the judge heard these experiences with the predetermined comparison to slave life. By

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[25] "y mucho peor tratandome no como a muger sino como a esclava." AAL, Divorcio, 1622, Geronima de San Francisca contra Diego Gernandez, fol. 1.

[26] "sin racon ni culpa mia." AAL, Divorcio, 1622, Geronima de San Francisca contra Diego Gernandez, fol. 1.

[27] "desde que nos casamos meodad vida de esclava." AAL, Divorcio, 1614, Elena Garcia contra Martin Garcia, fol. 1.

relating her life and experiences to that of a slave, Elena, like Geronima and Francisca, showed that her husband was not acting like a husband.

The frequency of the use of the slave association provokes a dialogue about the complicated dialectic of race, status, and gender in colonial Lima. This metropolis was one of the most populous and diverse cities in the New World. Amidst all of the crowds, each individual had her or his place in the hierarchy of society. Status was so important that individuals even went to court over titles, like don and doña, that they felt were deserved and undeserved.[28] Treatment appropriate to one's status was necessary to perpetuate the colonial system. By treating their wives like slaves, the men cited in these cases not only violated general marital prescriptions but also undermined the colonial social system. Society did not consider wives equal to their husbands, but they were also not the equals of slaves. So while these men were sinning against the laws of God, they were also violating the laws of society. Although the latter transgression did not weigh as heavily as the former in the judges' opinion, the slave comparison only worked against the abusive husbands.

During the vivid description of violence in the first case discussed in this chapter, Francisca detailed the tactics Juan used to abuse her. Several aspects of the beating were far removed from what would have been acceptable for a husband. Francisca stated that Juan punched, kicked and hit her.[29] The punch was likely the least important to the judge in this case. Although Juan could have inflicted great damage with his fists, using his hands was acceptable in the colonial era. Beating his wife with his hands could have been explained away easily as attempts at correction. Even if she had received major injuries, he could have

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[28] Ann Twinam, *Public Lives, Private Secrets: Gender, Honor, Sexuality and Illegitimacy in Colonial Spanish America* (Stanford: Stanford University Press, 1999), 3-5.

[29] AAL, Divorcios, 1601, Francisca de los Reyes contra Juan de Lava, fol. 1.

claimed his intentions had been noble, but that he had accidentally been too harsh. The two other methods of violence, the kick and blow, were the more troubling accusations. The kicks would have been considered extreme, as this would have implied that she was already on the ground when he delivered the kick. Guaman Poma depicts the brutality of such action in one portrayal of an abusive priest kicking a pregnant woman on her knees (see Figure 17).

The most appalling abuse involved foreign objects. Such an instance is first mentioned as the blows Francisca received. In the transcript, the Spanish word used is *palos*, usually meaning stick, handle, or blow. That she cites palos separately from kicks and punches suggests that she endured many hits from blunt objects. The severity of Juan's abusive treatment is made clearer as Francisca described the abuse she experienced outside the city. Her most damning accusation is the numerous times that Juan attempted to stab her with his sword.[30] The weapon used and the numerous times that such an incident occurred made evident that Francisca's continued stay with Juan would surely have put her life in danger. The use of a weapon, whether it was a sword or a branch, was damning evidence against Juan. Abuse with weapons was seen as barbaric and the obvious threat to the life of the wife made it a condemning accusation.

Another persuasive part of Francisca's testimony was her interpretation of Juan's intent. On those fifty occasions, when Juan threatened her with his sword, Francisca stated that he had wanted to kill her (*ha querido matarme)*. She wanted to make clear to the judge that Juan's abuse not only threatened the quality of her life, but also her life and very existence. Her husband's intentions, as she claimed before, were evil and derived from anger rather than love. Also, by citing fifty near death incidents in the 12 years the two were

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[30] AAL, Divorcios, 1601, Francisca de los Reyes contra Juan de Lava, fol. 1.

married, Francisca established that Juan's actions were not isolated and rare, but rather, a frequent pattern of abuse. At nearly ten altercations a year, Francisca clearly demonstrated a pattern of abuse in Juan. That pattern made it harder for Juan to explain and justify his treatment of his wife.

The fear of death was common in the divorciadas' demandas in Lima. In 1622, an ecclesiastical judge in Lima heard the divorce case between Juana de Chumbi and Lorenzo de Heredia. Juana's demanda stated that she was enduring "*la mala vida,*" or the bad life, because of her husband's treatment. While not terribly common in court cases in Lima during this time, this phrase became commonplace by the end of the century in other parts of Latin America to describe the lives of abused and neglected wives.[31] In describing her mala vida, Juana said, "I have been at the point of death two times."[32] She expressed to the court, as did Francisca, that her husband's abuse had nearly taken her life. This most extreme assault, second only to murder, made evident the violent behavior of Lorenzo and the true danger which Juana had endured everyday.

Elena Garcia also explained to the court that she was "many times at the point of death."[33] Geronima stated similarly "he [her husband] wanted to kill me."[34] In fact, four of the seven divorces examined here cited a husband's effort to take his wife's life. This frequent

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[31] Richard Boyer, "Women, *La mala vida*, and the Politics of Marriage," in *Sexuality and Marriage in Colonial Latin America*, ed. Asunción Lavrin (Lincoln and London: University of Nebraska Press, 1989), 252-286.

[32] "*havien estado a dos veces a punto de muerte.*" AAL, Divorcio, 1622, Juana de Chumbi contra Lorenzo de Heredia, fol. 1.

[33] "*a muchas veces a punto de muerte.*" AAL, Divorcio, 1614, Elena Garcia contra Martin Garcia, fol. 1.

[34] "*queriendo me matar.*" AAL, Divorcio, 1622, Geronima de San Francisco contra Diego Gernandez, fol. 1.

appearance of attempted murder suggests two things: only the most extreme violence would merit a divorceable offense and women, in general, endured more abuse than is usually noted in historical literature.

While abuse was one of the primary complaints of women seeking a divorce in colonial Peru, it was rarely their only qualm. Divorciadas often coupled physical abuse with other ways in which their spouses failed to fulfill their duties and obligations. Infidelity was cited nearly as often as abuse in these divorce cases. Although a husband's infidelity was taken much more lightly than his wife's, adultery and a host of other offenses would damage the character of a husband in the eyes of a judge.

After detailing the abuse she suffered, Francisca cited Juan's extramarital affairs. She claimed that Juan was having sexual relationships outside of marriage. Francisca described Juan's two relationships of which she had knowledge. The first mistress she mentioned was a black woman, but Francisca continued to claim that "he [Juan] was not content with only that many offenses."[35] She proceeded to tell the court that, in addition to the first affair, there were "many days that he was spending the night with an Indian woman."[36] Again, Francisca was more concerned with establishing a pattern than merely citing specific instances. She brought up both women with whom Juan was involved and even commented that one mistress was not enough to satisfy his carnal desires. This account of immorality likely played into the judge's opinion. Juan's actions, as presented by Francisca, showed the judge that Juan was unfaithful and had failed to uphold his commitment to his wife. Also, Juan's

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[35] "*no contento con tantos offensas.*" AAL, Divorcios, 1601, Francisca de los Reyes contra Juan de Lava, fol. 1.

[36] "*a mucho tiempo que está amancebado con una india.*" AAL, Divorcios, 1601, Francisca de los Reyes contra Juan de Lava, fol. 1.

inability to control his lustful desires probably weakened his moral character before the judge and opened up any future claims Juan might have had to serious scrutiny.

Juana de Chumbi also critiqued her husband's infidelity within her demanda. She told the court, "It is normal that he spends the night with black and mulatto women."[37] Juana not only cited Lorenzo's infidelity, but also highlighted the habitual nature of his unfaithfulness. The adultery was not merely a mistake made by Lorenzo, but rather, a sinful lifestyle. And to make matters worse for Lorenzo, it was not only one woman. A mistress, though not technically acceptable in colonial Peru, was a tolerable offense. The likely reason for this acceptance was that it did not completely upset the social order. Promiscuity, on the other hand, was both socially and morally reprehensible.[38]

The conjugal contract between a husband and wife ensured that the sexual needs of each party would be met. Like many other colonial codes, this contract was not equally reciprocal. The women certainly were not as equally entitled as men, however, the church did demand that husbands have sex with their wives. If a wife asked her husband for sex, he was required to oblige her. The Salamancan *Libro sinodal* described it this way: "The husband does not have power over his body, nor the wife over her body... Moreover the one to the other pays his debt."[39] Even one of the four reasons cited for having sex was to prevent one's wife from seeking sexual pleasure elsewhere.[40] The judge saw the husband's adultery not

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[37] "*esta de ordinario amancebado con negras y mulattos.*" AAL, Divorcio, 1622, Juana de Chumbi contra Lorenzo de Heredia, fol. 1.

[38] Ruth Mazo Karras, *Sexuality in Medieval Europe: Doing unto Others* (New York: Routledge, 2005), 120-128.

[39] Gonzalo de Alba, "Libro sinodal," Salamanca, April 6, 1410, *Synodicon Hispanum*, ed. García, 2:160, as cited in Behrend-Martinez, *Unfit for Marriage*, 37.

[40] The other reasons were for reproduction, to fulfill the conjugal debt and "to carry out evil," or sex for pleasure. Ibid.

only as his moral transgression, but also as tempting his wife to seek sexual pleasure elsewhere; a husband could not fulfill the conjugal debt while spending the night with another woman.

Many of the wives applying for divorce clearly knew that their husbands were being unfaithful. Not only were these men having sex with other women, but they were also staying overnight with these women. This action was an insult to the wife as well as a black mark on her honor, as neighbors would be well aware that a husband did not come home for a night. Many of the women also cited that their husbands engaged in adulterous activities regularly. The frequency of this debauchery violated the morality of marriage and disrupted the ideal society sought by church and secular officials alike, which made frequent infidelity a more damning accusation.

Conclusion

The fate of these women relied on the judge's decision. If he found sufficient evidence of the wife's claims, he would grant the divorce. The woman would receive her dowry back and be freed from any obligation to her husband. If the judge refused to grant the divorce, the wife's fate was bleak. First, the wife had to pay for the court costs out of her dowry. Also, she had to return to living in a dangerous situation with an abusive husband, who was likely angry about having to defend his actions to the courts.

The divorce cases analyzed in this chapter have painted a picture of the darker side of marriage in colonial Lima. While there were certainly happy, life-long marriages, these cases illustrate the atrocities that were ever-present in marital life in Spanish Peru. Adultery and abuse were apparently not rare. For some of the women mentioned above, abuse would be a

daily or weekly affair. Likewise, some of these wives never knew if their husbands would come home for the night or spend it with another woman. And for a time, these women endured the behavior of their less-than-noble husbands. Of the trials examined here, no couple was married less than six years. So why did these women remain in these abusive relationships? The likely answers to this question are many, and will not be found in the transcripts of the trial. First, as stated before, the law permitted men to physically correct their wives, and this correction likely started as uncomfortable yet tolerable predicaments. These wives could endure a punch or blow from their husband. A divorciada could not, however, withstand a life of infidelity, abuse, and attempted murder. Second, life after divorce was a difficult one. Divorced women had no true, legitimate place in society. They did not have the respect that widows enjoyed. They certainly could not live the holy life of a nun, nor were they sought after like young virgins. They also no longer enjoyed being the pillars of female society as married women. Divorcing left little opportunities for these women. Their best chances lay in returning to their family's house to live out their life or entering a *recogimiento*, a house where women were watched over by nuns and priests. A more challenging option, one that some women in Lima chose, was to live out life as a single woman, active in business and fully supporting herself and her children. To choose to enter into these lifestyles, all of which were looked down upon by society, a woman had to be certain she no longer could survive and tolerate her marriage.

The uniformity of the complaints by these wives in Lima provides more insight into the minds of these divorciadas. Nearly every wife mentioned extreme abuse, slave-like treatment, and infidelity. The consistency of their demandas suggests that women were aware that their husbands' actions did not conform to the church's idea of a loving husband. The

women also knew that their cases had to prove, beyond all doubt, that a divorce was merited and necessary.

The divorce court transcripts that have survived show that women of any race or status could apply for a divorce. In her study of recogimiento in colonial Peru, Nancy van Deusen compiled statistics on women seeking divorce in Lima. Her study concluded that Spanish women were the overwhelming majority of divorciadas. Women of lower racial classifications, like the indigenous woman Juana de Chumbi and Geronima San Francisco who was a free mulata, also sought divorces, only with less frequency than their Spanish counter-parts. The diversity of divorciadas is evidence of the broad extent of male patriarchy and domestic violence in Peru. The idea of male dominance, even through physical "correction," became prevalent throughout Lima among Spanish and non-Spanish alike. And even though certain measures sought to prevent women of the lower racial identities from seeking a divorce; indias, mulatas, mestizas and other "inferior" women within the colonial caste system took advantage of the legal rights permitted to women through Spanish law in Lima.

Married women in colonial Lima were subject to harsh treatment with few options for recourse. The wives cited in this case were cheated on and beaten and ultimately looked for a way out of their marriages. These women chose to seek liberation in the ecclesiastical courts, but they were not guaranteed freedom from their violent situations. If a husband could accrue enough witnesses to support his side of the story or if he could convince the judge he regretted his actions and would begin to treat his wife as she deserved, the divorce often could be refused. Divorciadas in Lima appealed to the courts to free them from their troubled relationships. And though the written law gave them access to the courts, they were not

always successful. So while divorce, at first, might have seemed like the best option for abused wives in Lima, marital abuses and infidelity at times forced some women, like those cited in the next chapter, to take a much different approach.

CHAPTER 3

WAYWARD WIVES

Introduction

In 1629, Antonio Bisier petitioned the ecclesiastical court of Lima, located in the Viceroyalty of Peru, to have his wife, María de Benavides, placed in a *casa de divorcio*, or a house of divorce. This house of divorce, more commonly known as a *recogimiento*, functioned in many ways.[1] At times it served to give a woman a safe haven from an abusive husband until the courts could intervene and "persuade" him to treat his wife more gently or until the two received a divorce. Other times a recogimiento was a schoolhouse for young girls. In this case, the house served as a prison or holding-cell to retain María. Antonio claimed that María had run away with their daughter, whose name is never noted, and had refused to return to his house. The initial court proceedings failed to cite the reasons why María had fled her husband's house.[2] In the first part of the trial, however, Antonio demanded

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[1] This case uses *casa de divorcio* and *recogimiento* interchangeably. For a thorough treatment of recogimiento in all its forms, see, van Deusen, *Between the Sacred and the Worldly*.

[2] Throughout this chapter when I use "husband's house," I am referring to the house the couple lived in before the wife left. This terminology is used given the lack of concrete ownership information and to distinguish from the house to which the wife moved. The ownership of the house would depend solely on who acquired the house and when it was acquired. If one spouse owned the house before the marriage, that spouse retained sole ownership. If the two bought the house during their marriage, the home was jointly owned. Dillard, *Daughters of the Reconquest*, 69-71.

that she be placed in the casa de divorcio to keep her from leaving town with his daughter, likely because he felt whatever justification she had for fleeing was insufficient.[3]

Without much deliberation and without hearing testimony from anyone other than Antonio, the court granted his request and placed María in the casa de divorcio.[4] Only a short time later, María petitioned the court to free her from the de facto prison. She claimed that both she and her daughter had been held without food and were suffering unjustly in the current environment.[5] Normally, the husband would have been responsible for providing his family with sustenance during their stay in the house, and Antonio was obviously failing in this capacity. Despite these conditions, María did not ask for permission to return to her husband's house. Instead, she proposed two alternatives to the judge. The first was that the judge urge, or even force, her husband to provide food for her and her daughter. The second option, which María spoke about more at length and seems likely to have been her preference, was to release her and her daughter from the casa de divorcio and allow them to move to a *casa honrada* in the same city, literally an honorable house which was usually the residence of a widow, a respectable family in the community, or the woman's parents.[6]

In the end the court sided with María. She had persuaded the judge to allow her to choose the house in which she would reside. By the end of the court case, the original reason María left her husband remained a mystery. Given Antonio's treatment of his wife and daughter during their stay at the casa de divorcio, it is reasonable to believe that Antonio had

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[3] AAL, Causas Criminales de Matrimonio, Legajo 1, Expediente 21, 1629, fol. 1.

[4] Ibid., fol. 2.

[5] Ibid., fol. 5, 9.

[6] Ibid., fol. 12.

been neglecting their physical needs, at the very least. But, possibly more important than the reason for María's discontent is her response to what she believed was objectionable treatment by her husband. María simply took her daughter and left.

The abovementioned case was held in the ecclesiastical court, the common venue for marriage issues to be resolved. The Catholic Church had long debated the parameters of matrimony when the Council of Trent in 1563 confirmed the sacrament of marriage and the requirement of vows before a priest. The Church "made" the marriage, and therefore, sought to protect its integrity. The ecclesiastical courts presided over the majority of marital disputes, upholding the guidelines established by canon law. A marriage, according to the Catholic Church, was something that could not be undone. If vows were exchanged, and those vows were consummated, then the two were forever bound. While divorce was approved under specific circumstances, namely infidelity or domestic abuse, it was a sanctioned separation. The couple no longer lived together and no longer supported one another, but they could not remarry--and in the eyes of the Church, the marriage still existed.[7]

By the seventeenth century, women in Lima were freely accessing the legal system to confront abusive and neglectful husbands, and many were successful. Before 1600, there were only three divorce cases in Lima, but there were 35 between 1601-1610. Divorces continued to increase and from 1641-1650, 186 divorce cases were held in Lima. While men could also file for divorce, women were more often the plaintiffs.[8] This rise was likely the result of the refinement of Spanish institutions in the New World, as well as the recent revisions to theological views on marriage. Though divorce was a viable option, María

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[7] van Deusen, *Between the Sacred and the Worldly*, 82-84; Behrend-Martinez, *Unfit for Marriage,* 1-7, 32-40.

[8] van Deusen, *Between the Sacred and Worldly,* 84-89.

instead took it upon herself to publicly condemn the actions of her husband. She asked not for the approval of her spouse nor the ecclesiastical courts for her decision to leave. She empowered herself with jurisdiction over the situation. The use of the courts was fundamentally tied to the power of men. While women could use the courts, and quite effectively at times, this chapter will show that they were not dependent on official modes of power, all of which contained a male bias and often left the burden of proof solely on women, with men receiving the benefit of the doubt.

This chapter will examine several court cases from the seventeenth century in which women left their husbands. The cases were accessed at the *Archivo Arzobispal de Lima* and archived as *Causas Criminales de Matrimonio* (CCM), criminal cases regarding marriage. All cases of this delineation involved crimes against marriage where divorce, or *separacíon*, was not the ultimate aim. Of the 23 CCM cases from 1600-1630, four of them involve women refusing to live with their husbands; some ran away, while others simply refused to relocate with their husbands. In all four cases cited here, the husband, as the prosecution, petitioned the court to order the wife to return to her husband. Using these cases, this chapter will show that women used fleeing to assert their control over themselves, their space, and their production, which brought about a renegotiation of the power balance within the marriage.

Employing vocabulary that can adequately describe the act of a woman leaving the company of her husband has proven difficult, if not impossible. The phrase used most often within the courts is *ausento de mi compania*, meaning the women left the company of their husbands. This chapter highlights the active participation involved in this "absence." Words such as "flight," "flee" and even "left" imply that the woman was escaping her husband and

the mistreatment that provoked her to such action. These words also infer a sense of permanence, meaning that the woman was leaving indefinitely, which was not always the case. The word "abandon" can also convey the nature of this action. When a husband was left without the services of his wife, he was often not equipped to take care of his household alone. Though Spanish history has used this term almost exclusively to refer to men leaving their wives or parents abandoning illegitimate children, this chapter will extend the use of the term to describe the actions of these women.[9] Referring to these wayward wives as "runaways" is also partially appropriate. This choice also helps relate the rebellious nature of the act--a wife living apart from her husband was not legally or socially acceptable during the colonial period. While any vocabulary used will only convey the physical actions of the women, this study will show how women also used physical separation from their husbands as a means to renegotiate the context of the marriage.

Additional court cases show that María was not the only woman who fled her husband's house. This method of retaliation by a wife was likely a common tactic. Unfortunately, we will never know the true frequency of this response by women, in part because the only documents that enlighten us of these occurrences are those that ended up in court, at the urging of the wife, husband, or the town or church officials. It is safe to surmise that many times a wife's absence was remedied between the couple and with their friends in the town without having to resort to an official court visit.

The first section will argue that women were not dependent on the court system, though this research *is* dependent on the court's records. Recent literature on women in

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[9] For an example of the traditional uses of abandonment, see, Mary Elizabeth Perry, "'Lost Women' in Early Modern Seville: The Politics of Prostitution," *Feminist Studies* 4, no. 1 (1978): 198; Mannarelli, *Private Passions and Public Sins*, 127-137.

colonial Latin America has focused increasingly on women's use of the courts. An abundance of court cases have survived and have aided historians in understanding women's legal participation. These cases are also rare "clips" of the voices of women. While legal action was surely not a mistreated wife's first response, we must search these cases and other sources to find and understand the initial, extralegal actions of women.[10]

Second, the women in question defied the ideal Spanish household. As historian Heath Dillard points out in *Daughters of the Reconquest*, Spanish society was built on and strengthened by married couples. This was nowhere more important than in the frontiers of the Reconquest, argues Dillard, and surely it was as important on the frontiers of the empire, the New World. Single people were mobile and less likely to produce offspring to build up the community. By leaving their husbands, women broke down the foundational unit of colonial society.[11]

The third section notes that by leaving their husbands, women took control of labor; their own labor to be exact. Women, especially those who could not afford house servants, had specific feminine duties that they attended to regularly, many inside the house. These responsibilities included cooking, weaving, child rearing, and sex. Women were expected to have sex with their husbands as part of the conjugal debt, whereby a husband and wife owed the other sexual pleasure if requested. A lack of coitus could even be grounds for

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[10] For women in the court system, see, Powers, *Women in the Crucible of the Conquest,* 100-120; Boyer, "Women, *La Mala Vida*, and the Politics of Marriage"; Martín, *Daughters of the Conquistadores*; van Deusen, *Between the Sacred and Worldly*, 81-100. For women and last will and testaments, see, Susan Kellog and Matthew Restall, eds. *Dead Giveaways: Indigenous Testaments of Colonial Mesoamerica and the Andes* (Salt Lake City: University of Utah Press, 1998); Frank Salomon, "Indian Women of Early Colonial Quito as Seen Through Their Testaments," *The Americas* 44, no. 3 (1988): 325-341.

[11] Dillard, *Daughters of the Reconquest*, 1-35.

prosecution.[12] By leaving the home, the abovementioned tasks went undone. The male was left to cook for himself and buy clothes, or spend the extra money to hire a servant and possibly even a prostitute.

Finally, the wife's absence and assertion of power through her control of her location adjusted the authoritative structure within the marriage. Colonial society placed major importance on controlling women. According to Spanish culture, the female sex needed to be under surveillance, mainly to ensure their honor, which they could not do on their own.[13] The fleeing women completely undermined the spatial sanctioning of women.

In Spanish patriarchal society, though women had rights, the husband was the unquestioned authority of the family. A woman could use the legal system to divorce her husband, but leaving her husband achieved a different goal. By fleeing a woman attained power and authority by undermining social institutions that oppressed her and highlighted her vital contributions to the family. Control over production and surveillance brought equity to the relationship that was not the social or legal norm in colonial Peru. Although equality among the sexes that existed pre-Hispanic Peru and evident in Guaman Poma's etchings was replaced by the Spanish patriarchal system, the women cited here found ways to assert themselves in a male-dominated system outside of official institutions.[14]

The Hidden Actions of Women

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[12] Behrend-Martinez, *Unfit for Marriage*, 37-38.

[13] This concept is discussed at length in Twinam, *Public Lives, Private Secrets*.

[14] Socolow, *The Women of Colonial Latin America*, 1-16.

In recent years, historians have written extensively on the utility of the court system for women. Karen Viera Powers' *Women in the Crucible of the Conquest* documents numerous occasions when women entered the courts for economic and matrimonial justice. This work and others undermined the ill-conceived notion that women in the Spanish Empire were politically disenfranchised. The women of Latin America certainly were socially disadvantaged, but the law was clear about women's right to pursue legal action.[15]

Few scholars have written about other methods women used to achieve their agendas. One likely reason is the exceptional legal rights that were granted to women in the Spanish empire relative to other empires of the time. For example, England during the early modern period excluded women completely from the legal process.[16] For gender historians, this unique right makes female litigants appealing research subjects. A second, more practical reason is the amazing number of court cases that have been preserved. Official state and church documents make up the majority of sources that have survived the hundreds of years since the colonial era. With these documents now largely catalogued and easily accessible, it is only logical that they would be used extensively.

Yet as this chapter demonstrates, these court cases can also offer us a glimpse into the extralegal matters of the colonial era. Given the expansive nature of most court trials, much can be deduced about the individuals involved, their relationships and society more generally. The cases include multiple perspectives: the plaintiff, defendant and witnesses for both sides, with each insight providing new information. In many of the cases studied in this

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[15] Powers, *Women in the Crucible of the Conquest, 100-120.*

[16] Amy Louise Erickson, *Women and Property in Early Modern England* (London: Routledge, 1995), 2-9; Pearle Hogrefe, "Legal Rights of Tudor Women and the Circumvention by Men and Women," *The Sixteenth Century Journal* 3, no. 1 (1972): 97-98.

chapter, the extralegal actions of the wife are the focal point of the trial. In several court proceedings, the husband had taken the wife to court because she refused to live with him. In the case of María Benavides, she also "kidnapped" her daughter when she left.

There are methodological difficulties of this study. First, no other primary sources shed light on these fleeing women and their actions. While hopefully future research will locate new materials that will provide supplementary information, for now we are limited to the details documented in the trial. Second, the judge and prosecutors were primarily concerned with legal matters. This focus will often lead to the omission of details useful to understanding the marital relationship, but that would have little legal bearing. A good example is found in the case of María and Antonio. The final pages of the court proceedings only cite that she will be housed in a casa honrada until she returns to her husband's house.

By examining the court cases, we will see that women did not rely solely on the court system. At times they took matters into their own hands. Many women who were dissatisfied with their living conditions, like doña Benavides, decided to take control of themselves and their situations by leaving their husbands' house. While many historians conceive of the use of courts by women as an example of their ingenuity, this chapter will show that women in Lima also took control of their own lives, rather than leave their fates in the hands of a judge.

(De)Forming a Model Society

By abandoning their husbands, wives in Lima refused established cultural norms and in doing so upset the Spanish social order. As noted in Chapter 2, the familial unit was the cornerstone of new Spanish settlements. The establishment of families was necessary for the success of Lima. As the Spanish populated the city, conquistadors gradually settled down,

started families, and established stationary businesses. The fleeing women cited in this chapter, however, undermined this stability. They rejected the familial unit by leaving their husbands. They rejected cohabitation and in turn created mobility for themselves and even husbands, which counteracted one of the major benefits of marriage to the community.

The women in Lima who left their husbands disrupted the social order that the familial unit instilled. As women left the family house, the familial unit ceased to exist and function in its intended form. In the case of María Benavides and Antonio Bisier, the subject of how their daughter should be cared for became a focal point of their dispute. As stated previously, María took her daughter with her when she left Antonio. Throughout the entire case, the primary concern voiced by Antonio involved his daughter. In his initial petition, Antonio expressed his fears about María's intentions for their daughter. "As said above, she (María) wants to leave town and deprive me of my daughter."[17]

The Church, as well as Spanish society, intended children to be raised by both parents. The father and the mother were supposed to work together to ensure that their daughter was brought up honorably. This meant that the mother taught her daughter the domestic roles she would need once she reached adulthood. The father's primary responsibility was to protect the safety and honor of his daughter. Honor was vital to a woman's status in society.[18] Marriage and sexual purity played major roles in the way women were viewed. Away from her father, the protector, the daughter's honor was in jeopardy. Antonio worried about the fate of his daughter while he was not around. There were several other occasions within the trial where Antonio made no mention of his wife, but adamantly

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[17] "*que la suso dicho se quiere ausento de la ciudad y silo su viesse yo quedaría despojado de la dicha me hija.*" AAL, Causas Criminales de Matrimonio, Legajo 1, Expediente 21, 1629, fol. 1.

[18] Twinam, *Public Lives, Private Secrets*, 59-66.

expressed his concern for the welfare of his daughter. Unfortunately, the trial does not specify the length of time María and her daughter had been away before the trial. Antonio initially claims that "my wife, for many days, has left my company and has taken with her my daughter" but is never more specific.[19] That it only took days for Antonio to bring his grievance before the courts suggests that he was considerably worried about his daughter's safekeeping. Due to Antonio's petition, the court, and more specifically the judge, became a voice of authority in the raising of the daughter. The social unit ceased to work effectively, requiring the church officials to act in loco parentis. In the end, it was the judge who made the final decisions on the safety and interest of the daughter.

The rejection or distortion of the familial unit can also be seen in the case between Cosme de Uria and his wife, Luisa de Vega, heard in 1626. Cosme was a common laborer whose work had been moved from Lima into the valley of Surco. When he migrated to Surco, Luisa refused to accompany him. Instead, she moved back in with her mother. By living away from her husband, Luisa disrupted the familial unit. Rather than follow her husband, she reverted back to life before marriage. In Spanish society, after Luisa married Cosme, he became her protector and provider. Luisa rejected this notion and returned to depending on and residing with her mother. Also, Luisa surely performed certain tasks while living with her mother. Luisa denied her husband the reciprocal relationship expected, and reverted back to a mutually reciprocal relationship with her mother.[20]

Isabel Galindo, another fleeing wife, responded similarly to Luisa de Vega. In 1629, Isabel left her husband, Alexandre de Almeida, and went to live with her mother. Refusing

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[19] "*mi muger a muchos dias que que el me ausento de mi compañía y se llevo con sigo una hija.*" AAL, Causas Criminales de Matrimonio, Legajo 1, Expediente 21, 1629, fol. 1.

[20] AAL, Causas Criminales de Matrimonio, Legajo 1, Expediente 18, 1626, fol. 1-2.

cohabitation, Isabel eliminated the reciprocal lifestyle expected of married couples. Instead, she reverted back to her mother's household.[21] The reliance on family by these women is important. When these women escaped their husbands, they had to have a place to go. If a woman did not have the financial capability to support herself, and at times her children, she would rely on relatives and community friends to protect and provide for her while she lived away from her husband. Also, Isabel took her daughter with her when she left, as did María de Benavides.[22] These two women upheld their role as "mother" but rejected the female roles and duties of a wife that would benefit their husbands.

The familial unit was a cornerstone of the New World society. Cultural, social and legal institutions supported this familial unit. Women who left their husbands expressed not only discontent with their spouses, but also a disregard for social norms and established institutions. By leaving, they disrupted the equilibrium that was created within the husband/wife cooperative. The next section will analyze the tangible consequences of the refusal of these institutions.

Controlling Production

There were results of a woman's absence from her husband that are not explicitly covered within the dialogue of court proceedings, but that we can deduce from social practices of the era. By leaving her husband's house, a woman abandoned many of her marital duties, thereby vacating her economic role. The duties of a wife will be discussed in

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[21] AAL, Causas Criminales de Matrimonio, Legajo 1, Expediente 23, 1629, fol. 1-2.

[22] Ibid.

two categories within this chapter. The first is the chores that were seen as feminine, including cooking and sewing clothes. The second female duty addressed will be sex.

Unfortunately, the cases involving women leaving their husbands reveal little about the situation at the house prior to or after the wife's exodus. In María Benavides's case, we are never informed as to the reason she left with her daughter. We do know that she left the house, and the evidence suggests that she had not returned to do any work. Antonio stated that she had been absent from the house for many days. His fear that she had or would flee the city implies that they had little or no contact. During her time away, the jobs that she normally would have executed were left unattended.

In the case of Cosme, who went to work in the valley of Surco without his wife, we find evidence of the tension about the conjugal contract. In his initial petition to the court, Cosme told the court that he was only moving to Surco because it was the only place he could find work. He showed how he was doing his part to support their family, implying that his wife was neglecting her responsibilities.[23] In this new town away from family and friends, Cosme felt the absence of his wife's contributions.

It is possible that Cosme's migration to Surco contributed to the strain he felt without his wife. Bianca Premo's article on the gendered effects of the *mita* describes the important role women played in labor migration. The mita was an annual labor draft to the silver mines. Premo claims that "women, regardless of their origin, helped ease the burdens on the mitayo as he performed his duty in Potosí. The income from family members' market activity or

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[23] AAL, Causas Criminales de Matrimonial, Legajo 1, Expediente 18, 1626, fol. 1-2.

domestic service often made the difference for a mitayo's survival."[24] While a woman's work may have been taken lightly within the confines of urban societies, their activities in migration to rural areas sustained the familial unit. Though Cosme was traveling for independent work, not as a mita worker, his family likely suffered similar hardships. The absence of his wife proved severe enough to force Cosme to petition the judge for his wife's company.

With respect to production, a woman's absence from her husband can be understood essentially as a labor strike. While most labor historians do not begin to use this terminology until after industrialization, the essence and concept of a strike are evident in the actions of the women described in this chapter. And just like a modern worker's strike, the action of women likely produced a renegotiation. There are three foundations of a labor strike that are related to a wife leaving her husband: a physical relocation, a lack of production, and an intended transient existence.

Physical relocation is essential to a successful strike. Separating oneself from the place of production essentially builds a barrier of space between the individual and the context of oppression. Normally strikers exit the building of production, leaving the space empty and silent. The same is true of women who left their houses. When the "boss" (the husband) entered the house the wife was gone and the "technologies" of the wife's production, which in the colonial Andes would have been a weaving machine and hearth, stood empty and unused. Aside from the lack of products, the "boss" was forced to observe the dormant "production machines."

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[24] Bianca Premo, "From the Pockets of Women: The Gendering of the Mita, Migration and Tribute in Colonial Chucuito, Peru," *The Americas* 57, no. 1 (July 2000): 74.

The lack of production is normally the most effective result of a strike. The scarcity of products forces action by the authority at which the strike is directed. In the case of industry, the risk of monetary loss forces the employer to either satisfy the demands of the workforce or to hire new workers. This aspect of strikes is modified within the context of the married couple. When the woman ceased her production, her husband had little recourse. If he chose not to compromise and rectify the problem that caused his wife to leave, he would be forced to hire a servant to perform the cooking and cloth making. But his wife was never paid, so the financial burden increased significantly. This burden would be amplified if the wife had contributed to the income of the house through the sale of clothes, which was not uncommon.

As stated before, a wife's duties included sex, and when the woman left her husband, that conjugal debt went unpaid. The first consequence of the lack of sex was the unfulfilled sexual desire of the husband. His two options to satisfy his physical urge were to endure the lack of pleasure or to hire a prostitute. The latter would further the financial burden created by his wife's absence. The second consequence was that children would not be (re)produced. The great importance of reproduction in Catholic theology and the mores of colonial society created a moral and social dilemma. By controlling sex, the woman gained authority within the marriage.

The temporary nature of strikes is difficult to attribute definitively to the fleeing women in Lima. Striking workers hope that their demands will be met, though they are also mindful that compromises on their part will often be required. They hope that their time refusing work will produce an acceptable long lasting work environment. But if we examine the main difference in fleeing and the only other alternative, divorce; one thing becomes

clear. While a woman could leave her husband's house and return, a divorce was irreversible. The permanence of divorce was one likely reason women chose the extralegal institution of flight. As an informal method, flight had no concrete rules--the institution of flight was itself a violation of the guidelines of marriage. That said, fleeing could have been a temporary move for women, at least in its initial conception. A wife's absence from her husband easily could be seen as a brief hiatus meant to persuade her husband to change his ways. Documents reveal little information about the past and future of the fleeing women and their husbands. The cases end when a judge makes his decision, and how the rest of the quarrel was remedied is often left to the imagination.

We can say with great certainty that a woman served distinct and vital purposes within the family and household. In a wife's absence, her duties were neglected, and her husband felt the effects. A wife took control over her labor by "striking," thereby asserting her power and authority within the marriage. This is not to say that anger, depression, or love never played a role in a woman's decision to leave. Emotions surely affected a wives' actions, however, discussions of their feelings often elude the documentation that has survived. But because of or in spite of their emotions, women chose venues, in this case flight, that could improve their situations.

Fighting Enclosure

By removing herself from her husband's watch, a woman increased her mobility, something the colonial Spanish system hoped to inhibit. Within the Spanish empire, a woman's physical mobility was seen as dangerous. Towns in both Spain and Spanish America had a specific place for women of every status. Prostitutes and even "rogue"

prostitutes had a designated geographical place within a city. Assignments to a specific place, in theory, were extremely specific.[25] Young women were to live in their parent's house, and sometimes deposited in convents. Married women lived in their husband's house. Nuns lived in convents. Prostitutes lived in brothels. The entire foundation of the concept of the recogimiento, discussed extensively by historian Nancy E. van Deusen, was the "enclosure" of women. Given the ambiguous nature of recogimientos in Peru, as well as throughout the Spanish empire, the recogimiento existed to house women who were not "kept" in some other acceptable place. [26] To be certain, controlling the location of women in order to control their actions was of the utmost importance in colonial Peru.

Spanish society epitomized the control of space and use of surveillance as an assertion of power, a view most often associated with Michel Foucault. In his discussion of Jeremy Bentham's Panopticon, Foucault notes how surveillance asserts the power of the seer over the seen.[27] The control of space in colonial Peru was the geographic form of Bentham's architectural design. Women had to be in a place where they could be watched over, protected and punished, and men were most often the ones thought to be best equipped for such a duty. Though the architectural boundaries in Peru were not as fixed as Bentham's model, surveillance of women was vital to Spanish society. The lack of physical boundaries, however, limited the effectiveness of this form of spatial control and surveillance. Women, particularly married women, though watched, were not locked away completely. The social

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[25] Perry, "Lost Women," 206-210.

[26] van Deusen, *Between the Sacred and Worldly, 20-24.*

[27] Bentham's Penopticon was originally an architectural design for a prison. A center watchtower was to be surrounded by holding areas. The goal was that a person in the watchtower could always see every part of the holding areas, but the prisoners could never see in to the watchtower so they never knew when they were being watched. Michel Foucault, *Discipline and Punish: The Birth of a Prison*, trans. Alan Sheridan (New York: Vintage Books, 1995), 195-205.

fixation on the spatial confines of women was completely disrupted by women like María Benavides. With only a door keeping her under control, María chose to remove herself from her husband's watchful eye, thereby eliminating that mode of power.[28]

Doña Benavides left her husband and he feared she might even leave the town. He refused to allow her to live "unenclosed," not knowing where she might go or in what she might engage. While the judge placed María in a recogimiento, her initial action of leaving her husband displayed her rejection of the idea that she needed to be "enclosed" or watched over. By leaving her husband, María freed herself from her enclosure at her home, and took control of her space, and thus herself.

This escape illustrated her independence from her husband, weakening his control over her. Some women who wanted to create space between themselves and their husbands did so without the help of official institutions. While women of seventeenth century Lima could access the courts with relative ease, the wives cited in this chapter refused to subject themselves, at least initially, to the laws and orders of the courts. Their choice to leave their husbands rather than enter the courtroom further demonstrates their independence from the patriarchal structures of colonial society. Their actions empowered them and weakened their husbands by forcing the latter to take action in the court.

By taking their wives to court, husbands essentially conceded that they could not control their wives and did not have full authority within the marriage. The Catholic courts that are analyzed within this chapter were the final authority. According to Catholic theology, an ecclesiastical judge's decision was the specific will and command of God. In looking to another source, the court, to resolve a conflict, these husbands displayed their inability to

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[28]Ibid., 195-215.

resolve the situation. This inability is linked directly to their lack of authority and control within the marriage. While laws might set out the submissive nature of a wife to her husband, practice did not follow consistently.

A prime example of the lack of control can be illustrated in a case from 1616. Captain Fernando de Paredes brought his wife, doña María de Aguilar, to trial for refusing to move to Ica with him. He explained to the judge that he was an elderly sick man and the climate of Lima would take his life if he remained there. He also mentioned that he had many *haciendas* (plantations) in Ica and would lose the money from the production, if not the lands themselves, if he did not return to Ica to oversee them.[29] Within the petitions of Captain Paredes' lawyer, Juan Baptista de Esquiala, we learn that this is the third trial convened to force doña Aguilar to go with her husband. Although those trial transcripts have not survived, according to Juan Baptista de Esquiala, the two previous judges found in favor of Captain Paredes. In spite of those rulings, doña Aguilar still refused to move, further strengthening her position in the marriage. She required more than just an order from her husband and the courts to observe her husband's wish to relocate. Her true desires are never expressed explicitly in the trial. It is not even known if she wanted to live only in Lima or would have been willing to move to somewhere other than Ica. In this case, simply the threat of non-cohabitation caused a power shift in the marriage. Doña Aguilar's open refusal to move forced Captain Paredes to seek his familial authority through the courts, which at least twice proved futile.[30]

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[29] AAL, Causas Criminales de Matrimonio, Legajo 1, Expediente 8, 1616, fol. 1-2.

[30] Ibid., 1-3.

By taking control over their location, both María de Benavides and María Aguilar diminished the authority of their husbands. For Antonio Bisier, he lost his paternal authority over his daughter. In law and theory, he still had a voice in her upbringing, but he was forced to trust the judge to ensure his interests were served. Captain Paredes had lost control over his entire household. He wanted to move his family and belongings to Ica, but his wife's refusal forced him into the court to achieve this goal.

Conclusion

The women cited in this chapter resisted the traditional submissive and passive characteristics intended for every female. Instead of using a legal system that held inherent male bias, these ladies in Lima asserted their authority outside of the law and traditional practices. They utilized an extralegal institution to free themselves from oppressive, abusive, or otherwise unsatisfactory marital situations. Undermining the social and legal norms, controlling their labor, establishing mobility, and resisting surveillance asserted a woman's authority, which was rejected in social and legal policy.

There is still much to be learned about these women. The scant documentation we have about their marital conditions and their ultimate futures limit the conclusions that can be drawn. As fleeing wives continue to be studied, it is important that we begin to see who was capable of such an action. Of the four women cited in this chapter, we know that two of them, Luisa de Vega and Isabel Galindo, returned to their mothers' houses. Family support systems were likely vital for women who left their husbands. With support systems as the key, wives of any socio-economic status could feasibly flee their husbands. Even within the small sample of this study the socio-economic diversity is evident. Doña Benavides and doña

Aguilar were of high, wealthy status. Luisa de Vega was from the lower class and Isabel Galindo was likely from the middle or lower class.[31] The documents give much more information about the socio-economic status of the women than about their race. That their races were not documented suggests that these women were either Spaniards or mestizas, especially the doñas. More research should be dedicated to deciphering whether indias, mulatas or negras in Lima also fled their husbands.

We can begin to propose theories about their motivations by understanding the differences between divorce and extralegal actions. One major deterrent from the court system was the financial burden incurred by legal proceedings. Entering into a divorce case could be an expensive endeavor. Paying the notaries, attorneys, and other court costs could add up quickly.[32] But this was not likely a major factor for women. If a woman filed for divorce and succeeded, the husband would have been responsible for the cost of the trial. If she lost, the financial burden would have fallen on the family unit, meaning she would have shared it with her husband.[33]

It is possible that women used fleeing simply as a negotiation tool. The absence of a woman caused her husband to reflect on her invaluable role within the household. The informality of the practice also allowed women to choose how long they stayed away. If her husband agreed to cease whatever behavior she found objectionable, she could return to the house at once. Such ambiguity was not available within the legal constructs. Until we attain

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[31] Isabel and Alexandre's financial and social status are uncertain within the case. Yet, because Isabel does not claim to be a doña and Alexandre does not provide his occupation suggests they were part of the lower class.

[32] For an example of court costs, see Behrend-Martinez, *Unfit for Marriage*, 163. Behrend-Martinez inventoried a divorce trial of 57 folios that cost 223 reales.

[33] Ibid., 62.

more examples of wayward wives, much of their motivation and their life after flight will remain debatable. What will remain certain is that women in Lima were willing to reject legal structures to assert their utility and authority on their own terms.

While much about these women and their marriages remains a mystery, we should continue to examine their actions, searching for their motivation and evaluating their tactics. Though we can only guess what the goals of the wayward wives might have been, the consequences of their actions are evident. These women acted outside of social and legal parameters and took control of their bodies. They resisted the social control over their gender by eliminating the surveillance of women, which defined gender relations in colonial Latin America. This renegotiation of space resulted in a renegotiation of power. The very context in which we find these cases illustrates that some men had lost a certain power and control over their wives. A wife's absence forced her husband to rely on a judge to achieve the husband's will for his wife. Through extralegal practices, women asserted their value and power within colonial society.

CONCLUSION

Spanish society held a diminutive opinion of women. Women were considered intellectually and morally inferior, incapable of understanding the complex world.[1] This gendered hierarchy was a Spanish import to the New World. As Chapter 1 has shown, patriarchy was not always the norm in the Andes. Gender complimentarity and parallelism were replaced by male supremacy and female inferiority. This new system left women at a great disadvantage, most evidenced by the domestic abuse that some experienced.

Spanish law and tradition placed numerous restrictions on women, the most prominent being the recogimiento, yet permitted them unfettered access to the courts. Catholic theology determined that women were to be submissive and passive, always deferring to their husband's will. Both church and secular law allowed women to protest their husbands only through the court system. That structure ensured that women continued to lack any authority over their husbands. By forcing women to petition a judge to settle a dispute between her and her husband, even if the court sided with the wife, it was the male judge whose opinion was definitive. In spite of the nature of the court system, some women in Lima, including those cited in Chapter 2, sought justice in the courtroom. Nevertheless, some women also chose to avoid the legal system and found other ways to assert their position and interests.

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[1] María Helena Sánchez Ortega, "Women as a Source of 'Evil' in Counter-Reformation Spain," in *Culture and Control in Counter-Reformation Spain*, eds. Anne J. Cruz and Mary Elizabeth Perry (Minneapolis: University of Minnesota Press, 1992), 196-199; Socolow, *The Women of Colonial Latin America*, 1-5.

Wives in Lima like María de Benavides found that they had options outside the legal protocol of colonial society. These women chose not to subject themselves to a costly court trial whose outcome they could not predict. Faced only with difficult decisions, these wayward wives departed from their husbands, freeing themselves, at least for a time, from the abusive and neglectful treatment they endured from their husbands. Their decision to leave was likely not an easy one. By living apart from their husbands, they were breaking church law. Also, leaving a home where they had lived for years certainly presented a host of problems, not the least of which was providing for their children who they often brought with them. While this decision held its difficulties, and likely was arrived at after other options had failed, these wives found it to be their best alternative. Their decisions show that women in Lima were not resigned to the approved, legal responses.

This thesis argues that women reacted to domestic abuse and neglect in a way that fit their situations. At times this meant divorce, and at other times this meant flight. The numerous women that chose to leave their husbands shows that extralegal responses were not uncommon. Despite the access women had to the courts, the legal process was still wrought with patriarchy and ideas about female inferiority. Many wives in Lima decided not to subject themselves to these biased courts. Women who left their husbands proved that they were not dependent upon the approval of any man, their husband or a judge, for decisions that affected their quality of life. When these women were abused and neglected, they made decisions which they felt could bring the quickest change to their situation.

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